

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

CrI. Bail Appln. No. S-860 of 2025

Applicant : Muhammad Yousif @ Judge s/o Ghulamullah @
Ghulam Ahmed, Kalhoro
Through Miss Farzana (Bhatti) Makwal,
Advocate

The State : Through Mr. Mansoor Ahmed Shaikh,
Deputy Prosecutor General

Date of hearing : 25.09.2025
Date of order : 25.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Muhammad Yousif @ Judge seeks post arrest bail in a case bearing crime No.287/2025, for offences under Section 324, 353, 399, 402, 147, 148, 149 PPC of P.S B-Section (Shah Hussain) Khairpur. Prior to this, the bail of applicant was declined by the learned Additional Sessions Judge-III, Khairpur vide order dated 29.08.2025.

2. Concisely, the facts of the prosecution case are that on the night of incident viz 05.08.2025, complainant HC-Bashir Ahmed Jeho along with his subordinate staff whilst patrol, received spy information about five armed persons available near *Achi Masjid* with intent to commit an offence. Upon reaching the pointed place at 0100 hours, an encounter allegedly took place between the police party and the accused persons. Such encounter continued for about 5-6 minutes. Meanwhile, accused Mubarak Ali and Muhammad Moosa sustained firearm injuries, while their companions including applicant made his escape good.

3. The learned counsel contended that the applicant is innocent and has been falsely implicated; no encounter took place as alleged; the applicant

was illegally arrested for non-payment of bribe; only the accused persons received injuries while no police official was harmed, making the story suspicious; the case requires further inquiry under Section 497(2) Cr.P.C; section 324 PPC is not applicable as no injury was caused to the complainant party; no independent witnesses were cited in sheer violation of the mandatory provisions of section 103 Cr.P.C.

4. Conversely, the learned Deputy Prosecutor General representing the State opposed the bail. According to him, the applicant is specifically named in the FIR as armed member of the assailant party, who facilitated and supported the commission of offence. He contended that the notion of mere "presence" cannot absolve applicant at this stage because his participation in an unlawful assembly armed with deadly weapons *prima facie* renders him liable under Sections 149 PPC for sharing common object. The learned DPG, therefore prayed for dismissal of the application.

5. After hearing the learned counsel for the parties and perusal of the record, this Court observes, the alleged offences under Sections 324, 353, 402, 399 PPC do not fall within the prohibitory clause of Section 497 Cr.P.C, as Section 324 PPC provides maximum punishment of seven years imprisonment. The prosecution case raises several questions that require further inquiry as such only the co-accused sustained injuries, surprisingly at the hands of their companions during the alleged encounter while all police officials remained unharmed. The identification of applicant is shown during odd hours of the night, more particularly, during course of exchange of firing which is not possible, rather to be believed. No independent witnesses were associated with the recovery in violation of Section 103 Cr.P.C. The prosecution case is primarily based on police testimony without independent

corroboration. It is a well established principle of law that every accused is presumed innocent until proven guilty through due process of law. Where reasonable doubts exist regarding the prosecution case, the benefit should go to the accused, even at the bail stage.

6. The applicant has no previous criminal record and is not shown to be a habitual or desperate criminal whose release would adversely affect society. Further detention of the applicant will not serve any useful purpose of justice while the credibility of the prosecution case can only be determined after recording proper evidence during trial.

7. In view of the above discussion and considering that the case requires further inquiry under Section 497(2) Cr.P.C., the applicant is admitted to bail in a sum of Rs.50,000/- (fifty thousand rupees), subject to furnish solvent surety and P.R. bond of the like amount to the satisfaction of the learned trial Court.

8. It is expressly clarified that the observations made herein are tentative and shall not prejudice the trial Court in making a final determination on the merits of the case after trial.

J U D G E