

**ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI**

*Criminal Bail Application No. S-2817 of 2025
(Rehan Versus the State)*

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of Bail application

10.12.2025

Syed Dilshad Hussain Shah, Advocate for the Applicant.
M/s. Qazi Ahmed Kamal, Anil Tariq and Raza Abbas Saaram Advocates for the Complainant, along with Complainant Muhammad Sohail having CNIC No. 32302—1237609-5
Mr. Mumtaz Ali Shah, Assistant Prosecutor General.
SIP Syed Nadeem Ali P.S. SIU CIA Saddar Karachi

Ali Haider ‘Ada’ J.:- Through this bail application, the applicant seeks post-arrest bail in FIR No. 1211 of 2024, registered under sections 302, 392, 397, and 34 PPC at Police Station Surjani Town, Karachi. Earlier, the applicant had approached the trial Court, where his bail was dismissed through order dated 16.09.2025 passed by the learned Additional Sessions Judge-II, Karachi West.

2. Briefly, the complainant states that he, along with his brother Faisal Shabbir, was returning home on a motorcycle when two unidentified persons riding another motorcycle intercepted them, causing both brothers to fall. The assailants allegedly snatched mobile accessories and cash, and upon resistance, one of the assailants fired upon Faisal Shabbir, hitting him on the neck, who later succumbed to injuries. FIR was lodged on the same day, i.e., 03.10.2024, against unknown persons. Subsequently, the present applicant was arrested in FIR No. 1216 of 2024 registered under sections 353, 324, and 34 PPC at the same police station. At the time of his arrest, a 9mm pistol as well as certain mobile accessories were allegedly recovered from him, which the police claim to be connected with the present offence. After this recovery, the applicant was also nominated in the present FIR.

3. Learned counsel for the applicant submits that the trial Court, through order dated 16.09.2025, declared the applicant a “juvenile” after examining his birth registration certificate, which records his date of birth as 14.07.2007. He argues that, once the applicant was judicially declared a juvenile, Section 6(5) of the Juvenile Justice System Act, 2018 (Act of 2018) applies. The said provision mandates that where a juvenile has remained in custody for more than six months and the trial has not concluded, he “shall” be released on bail. Counsel contends that this requirement is mandatory in nature. He further submits that it was the responsibility of the Investigating Officer to ascertain and determine the applicant’s age at the initial stage, yet this statutory duty was ignored. The applicant himself produced valid documentary evidence, upon which the trial Court declared him a juvenile. Counsel submits that although charge has been

framed, the prosecution witnesses have failed to appear despite repeated opportunities, which further strengthens the applicant's case for bail. He places reliance on PLD 2024 SC 843.

4. Conversely, learned counsel for the complainant has filed written objections, which have been taken on record. He contends that the applicant's date of birth, 14.07.2007 reflects that on the date of incident he was above 16 years of age, and therefore Section 6(5) of the Act of 2018 does not apply. Instead, he argues that Section 6(4) applies, which gives discretion rather than mandatory relief. He further argues that the plea of juvenility was adopted merely as a delaying tactic and that the applicant should have proactively asserted his juvenility at an earlier stage. Counsel submits that bail be refused on this legal ground alone and expressly refrains from arguing on merits as, according to him, the applicant has no case on merits for grant of bail.

5. Heard and perused the available record with due care.

6. The foremost issue requiring determination is whether the applicant qualifies as a "juvenile" under the Juvenile Justice System Act, 2018. The definition provided in Section 2(h) of the Act is reproduced below for clarity and proper application of the law:

"child" means a person who at the time of commission of an offence has not attained the age of eighteen years;

7. According to the above definition under the Juvenile Justice System Act, 2018, any person who is below the age of 18 years on the date of occurrence is to be treated as a "juvenile." In the present case, the Applicant has relied upon a Birth Registration Certificate showing his date of birth as 14.07.2007, whereas the incident took place on 03.08.2024. By simple calculation, the Applicant was more than 17 years of age at the time of the alleged occurrence. Therefore, although he was still under 18 years and falls within the definition of a juvenile, he was above the age threshold relevant for the application of Section 6(5) of the Act. Section 6(5) of the Juvenile Justice System Act, 2018 provides a specific concession by mandating release on bail where a juvenile *below the age of 16 years* has remained in custody for more than six months, and the trial has not been concluded. For clarity, Section 6(5) reads as under:

6. Release of a juvenile on bail.

(5) Where the Juvenile Court is of the opinion that the delay in the trial of a juvenile has not been occasioned by an act or omission of such juvenile or any other person acting on his behalf or in exercise of any right or privilege under any law for the time being in force, such juvenile shall be released on bail if he has been detained for a continuous period exceeding six months and whose trial has not been completed.

8. A bare reading of the above statutory provision shows that it is restricted to juveniles who are below 16 years of age. Since the Applicant, on the date of occurrence, was above 17 years, the special statutory concession under Section 6(5) is not attracted in his case. Instead, his case squarely falls within the scope of Section 6(4) of the Act, which governs juveniles

above 16 years of age accused of offences carrying severe punishment. Thus, the reliance placed by the learned counsel for the Applicant upon Section 6(5) is not applicable, and the interpretation suggested does not align with the plain language and legislative intent of the Act of 2018. However, the overall scheme of the Juvenile Justice System Act, 2018 makes it clear that where an accused exceeds the age threshold of sixteen years at the time of the alleged incident, he cannot seek benefit under Section 6(5) of the Act, which only applies to those juveniles who are below sixteen years of age and have remained in custody for more than six months. In such circumstances, the applicable provision is Section 6(4) of the Act of 2018, which governs the category of juveniles above sixteen years but below eighteen years of age. For ready reference, Section 6(4) of the Act of 2018 reads as under: *6. Release of a juvenile on bail.*

(4) Where a juvenile of more than sixteen years of age is arrested or detained for a heinous offence, he may not be released on bail if the Juvenile Court is of the opinion that there are reasonable grounds to believe that such juvenile is involved in commission of a heinous offence.

9. Furthermore, there appears to be no mala fide on the part of the complainant in involving the present applicant. It is a matter of common experience that incidents of street crime, robbery, and similar offences have alarmingly increased, particularly where unknown assailants intercept citizens and, upon the slightest resistance, resort to firing, resulting in loss of innocent lives. Therefore, while deciding bail applications in such cases, the Courts are required to exercise great care and caution, keeping in view the alarming rise of such offences in society. In the present case, the applicant was arrested in another criminal case, and during such arrest, the police recovered from him the mobile accessories and other articles that were directly connected with the offence alleged in the present FIR. Such recovery, coupled with the factual circumstances, prima facie connects the applicant with the commission of the offence. Hence, at this stage, the applicant does not qualify for the concession of bail.

10. The mere fact that the applicant has been declared a juvenile does not give him the entitlement to bail. The Juvenile Justice System Act, 2018 provides protection to minors, but such protection is not absolute nor can it be invoked where the accused is charged with grave and heinous offences. The law draws a clear distinction between offences punishable with imprisonment of less than three years and those involving death, imprisonment for life, or imprisonment exceeding seven years. In cases involving heinous offences, the mere status of being a juvenile is not, by itself, a sufficient ground for grant of bail. Reliance is placed on the case of **Kamran v. The State through A.G. Khyber Pakhtunkhwa and others (2024 SCMR 1419)**, wherein the Honourable Supreme Court held that

4. From perusal of record, it transpired that through a supplementary statement of the deceased/complainant, which was recorded by the police on the day of occurrence while the complainant was admitted in the hospital, wherein he nominated the present petitioner to be the unknown culprit who committed the offence. Imtiaz Hussain Shah, father of the deceased/complainant and Anwar Bacha, PWs after having seen the CCTV video of the

occurrence showing Kamran stabbing the deceased/complainant, charged the petitioner Kamran for murder of the deceased/complainant in their statements recorded under section 164, Cr.P.C. In the forensic video analysis made by the Punjab Forensic Science Agency of the CCTV video of the occurrence, no editing features were observed, hence the question of false implication does not arise in the instant matter. The cause of death, as recorded in the Post-Mortem Report, was the injuries to liver and major vessel of the abdomen. The recovered chhuri/ dagger, as per FSL report, was found to be stained with the human blood. In this way, the medical evidence and the recovery of crime weapon fully support the prosecution case by connecting the petitioner with the commission of crime, which entails capital punishment and falls within the prohibitory clause of section 497, Cr.P.C. Mere fact that the petitioner was a juvenile does not entitle him to the concession of bail as he was charged for a heinous offence, the punishment for which is death or imprisonment for life or imprisonment for more than seven years.

(underline emphasized)

11. Keeping in view the above facts and circumstances, the applicant has failed to make out a case for the grant of post-arrest bail at this stage. Accordingly, the Bail Application is dismissed. However, the trial Court is directed to conclude the trial within the prescribed period, in accordance with the provisions of the Juvenile Justice System Act, 2018.

JUDGE

Amjad/PS