

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2343 of 2025

Applicant : Salman son of Mayyhar, through
Ms. Naila Kausar, Advocate

Respondent : The State, through Mr. Tahir Hussain,
Assistant Prosecutor General, Sindh

Date of hearing : 23.10.2025

Date of decision : 23.10.2025

ORDER

Jan Ali Junejo, J.- Through this application under Section 497 Cr.P.C., the applicant/accused seeks post-arrest bail in Crime No. 164/2025 of P.S. Tipu Sultan registered under Section 25 / 23(1)(a) of the Sindh Arms Act, 2013. His earlier plea was declined by the learned XI-Additional Sessions Judge, Karachi South, vide order dated 29-05-2025.

2. The prosecution case, in brief, is that during investigation of Crime No. 163/2025 under Sections 393/34 PPC (attempted robbery), the applicant was apprehended, and from his possession one black-coloured toy pistol bearing mark "M-1058" was recovered. No other weapon or incriminating material was found. It is alleged that the said toy pistol constitutes an offence under the Sindh Arms Act, 2013.

3. The learned counsel for the applicant argues that the applicant is innocent, a poor labourer, and has been falsely implicated by the police with mala fide intent. She submits that the alleged weapon recovered from the applicant is merely a toy pistol and not a firearm; hence, no offence under the Sindh Arms Act, 2013, is made out. She further argues that no ballistic or forensic report has been produced to establish that the alleged weapon was capable of firing or could be converted into a real firearm. She contends that the applicant has been in custody since 18-04-2025, the investigation has been completed, and the challan has already been submitted before the trial court; therefore, his continued detention is unnecessary. She maintains that, in these circumstances, the case of the applicant clearly falls within the ambit of "further inquiry" as contemplated under Section 497(2), Cr.P.C., and he is entitled to the concession of bail.

4. Conversely, the learned A.P.G. argues that the applicant was apprehended at the scene of an attempted robbery and that the imitation pistol recovered from his possession attracts penal consequences under the Sindh Arms Act, 2013. He contends that sufficient material is available on record to connect the applicant with the alleged offence. He, therefore, prays for dismissal of the bail application.

5. I have heard the learned counsel for both sides and have carefully perused the record with a tentative assessment made with their able assistance. Admittedly, the only material alleged against the applicant is the recovery of a toy pistol described as a "black-coloured fake pistol bearing the inscription M-1058". No arms, firearms, or ammunition, as defined under Sections 2(b), (c), and (d) of the Sindh Arms Act, 2013, have been recovered from the applicant. The pivotal question, therefore, is whether the possession of a toy or imitation pistol falls within the ambit of penal consequences contemplated under Section 25 of the said Act.

6. Furthermore, the record shows that the pistol was never subjected to any technical or forensic examination to determine whether it had the appearance or characteristics of a real firearm within the meaning of the Explanation to Section 5. In the absence of such proof, it remains doubtful whether the alleged imitation weapon meets the statutory definition. Such doubt, at the bail stage, must enure to the benefit of the accused.

7. It is also an admitted position that the applicant is not alleged to have caused any injury or harm to any person. The allegation pertains only to possession of a toy weapon in the backdrop of an alleged attempt of robbery. The principal case itself rests on highly doubtful facts, particularly where the complainant claims to have overpowered one accused while the other escaped, despite being allegedly armed, circumstances that appear inherently improbable. The investigation having been completed and challan submitted, the applicant's continued detention would serve no useful purpose.

8. For the foregoing reasons, the applicant has made out a case for further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, this application is allowed, and the applicant/accused Salman S/o. Mayyhar is admitted to bail subject to furnishing surety in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) and a P.R. bond in the like amount to the satisfaction of the trial Court. It is, however, made clear that the

observations made herein are tentative in nature, strictly confined to the disposal of this bail application, and shall not prejudice the case of either party at trial. These are the detailed reasons of the Short Order dated 23.10.2025.

JUDGE

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