

**IN THE HIGH COURT OF SINDH, AT KARACHI**

Cr. Bail Appln. No. 1774 of 2025.

Cr. Bail Appln. No. 1775 of 2025.

Applicants : Amir Hussain through M/s Zameer Ahmed and Abdul Razaque Abbasi, Advocates a/w applicant.

Respondent : The State, through Mr. Rubina Qadir, Addl. P.G.

Date of Hearing : 10.11.2025.

Date of Order : .11.2025.

**O R D E R**

**TASNEEM SULTANA-J.**:-Through the instant criminal bail applications filed under Section 497 Cr.P.C., the applicant seeks post-arrest bail in respect of FIR No.1065/2024 registered under Sections 397, 353, 324 and 34 PPC and the connected FIR No.1066/2024 registered under Section 23(1)(a) Sindh Arms Act, both at Police Station SITE Super Highway, Karachi.

2. Having been rejected his earlier applications for grant of post arrest bail in Sessions Case Nos.3276 and 3277 of 2024 by the learned Additional Sessions Judge-VIII Malir, Karachi (Trial Court), vide order dated 25.03.2025, seeks the same concession.

3. Brief facts of prosecution case are that the complainant Kamran Hussain was returning home on his motorcycle when near Azeemabad Society, Scheme-33, three unknown culprits riding a motorcycle allegedly intercepted him and on show of weapon snatched his mobile phone, cash and purse containing CNIC and ATM card of his wife and fled towards Azeemabad Society. The complainant raised alarm whereupon SIP Mazhar-ul-Haq along with other police officials, who were on patrolling duty on motorcycles in the vicinity, arrived and on the pointation of the complainant chased the fleeing culprits. It is alleged that the culprits made straight firing upon the police party in order to avoid arrest and in retaliation the police also fired. Resultantly, one of the culprits died on the spot, the present applicant Amir Hussain received a firearm injury on his left leg and the third culprit escaped. The applicant was apprehended at

the spot and a 30-bore pistol with live bullets was allegedly recovered from his possession for which no licence was produced. Memo of arrest and recovery was prepared at the place of occurrence and the weapon was sealed, whereupon FIR No.1065/2024 under Sections 397, 353, 324, 34 PPC was registered at P.S. Site Super Highway. On the allegation of possessing an unlicensed weapon, FIR No.1066/2024 under Section 23(1)(a) Sindh Arms Act was also registered against the present applicant at the same police station.

4. Learned counsel for the applicant contends that the applicant has been falsely implicated; that the alleged incident occurred in a populated area during daytime yet no independent witness has been associated; that there is two hours unexplained delay in lodging FIR; that the allegation of straight firing appears doubtful as neither any police official sustained injury nor was the police mobile caused any damage; that the pistol allegedly recovered is without number and no ballistic report is available linking the same with the incident; that no recovery of the snatched articles has been effected from the applicant; that challan has been submitted and the applicant is no more required for further investigation; that the prosecution case suffers from contradictions creating benefit of doubt; that the case requires further inquiry falling within Section 497(2) Cr.P.C. The learned and that reliance is placed upon the case-law reported as 2016 P.Cr.L.J 683, 2020 P.Cr.L.J Note 199, 2022 MLD 950, 2024 YLR 905 and 2022 MLD 1557 (Sindh) in support of grant of bail.

5. Conversely, learned APG for state opposed the confirmation of bail by contending that the applicant is specifically named with attributed role in commission of crime and prosecution witnesses have implicated him. Besides, crime weapon was also recovered from his possession, hence sufficient material is available on record to connect him with the commission of crime.

6. Heard. Record perused.

7. It reflects from the record that the applicant along with his co-accused allegedly snatched belongings from the complainant and while fleeing towards Azeem Abad Society allegedly resorted to firing upon the patrolling police party pursuing them on motorcycles, resulting in the death of one co-accused whereas the applicant sustained firearm injury. However, recovery of the alleged snatched property has not been effected from the applicant or from co accused who was killed in police encounter. It is matter of record that alleged occurrence has been taken place in daytime, but no sufficient reason has been assigned for non association of

independent witness, despite the incident having taken place in a populated area. Besides it is worth nothing that FIR was lodged with the delay of two hours despite the distance between place of occurrence and police station was only 3/4 kms for which no plausible explanation has been offered by the prosecution, therefore, it cannot be ruled out that the intervening period was consumed for deliberation and consultation for false implication of applicant.

8. It further reflects that none of police official sustained injury, nor motorcycles of those police officials caused any damage in the alleged exchange of firing. At this stage Whether the applicant actually used the allegedly recovered pistol to commit robbery so as to attract Section 397 P.P.C., and whether any overt act was committed by him with the requisite intention to commit qatl-i-amd under Section 324 P.P.C., are matters requiring evidence and can only be determined by the trial Court after recording evidence and cannot be conclusively determined at this stage thus matter calls for further inquiry .

9. In the case of **Syed Amanullah Shah v. The State and another reported in (PLD 1996 Supreme Court 241)** Hon'ble Supreme Court observed as follows.

“So whenever reasonable doubt arises with regard to the participation of an accused person in the crime or about the truth/probability of the prosecution case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail then in the jail, during the trial.”

9. Considering the above facts and circumstances, applicant has succeeded to make out his case for grant of bail on the ground of further inquiry as contemplated under section 497(2) Cr.P.C. Consequently, both these applications are allowed and the applicant is admitted to post-arrest bail in Crime Nos.1065/2024 and 1066/2024, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand Only) in each case and PR bond in the like amount to the satisfaction of the trial Court.

10. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

**JUDGE**