

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Appln. No. 1659 of 2025

Applicant : Zeeshan through M/s Daud Narejo and
Muhammad Yousif Narejo, Advocates.

Complainant : HC Aamir Khan through Mr. Muhammad
Haseeb Jamali, Advocate.

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

Date of order : 11.11.2025.

Date of Order : _____

O R D E R

TASNEEM SULTANA, J:- Through this Criminal Bail Application, the applicant seeks post-arrest bail in FIR No.139/2025 registered at P.S. Saeedabad, Karachi under Sections 382, 324, 34 PPC.

2. Having been rejected his earlier application for grant of post-arrest bail in the same offence in Cr. Bail Application No.2117 of 2025, by the learned XII th Additional Sessions Judge, Karachi West vide order dated 15-5-2025, the applicant has now approached this Court for the same relief.

3. Brief facts of the prosecution case as narrated in the FIR are that on 20.03.2025 at about 1800 hours, injured Aamir Khan, HC Buckle No.22848, was sitting outside his house at Musharaf Colony, Baldia Town, Karachi, with his licensed 9mm pistol. Co-accused Choudhry Ali Raza along with his companion Hamza Bilal approached him and alleged that he had broken the glass of their vehicle and demanded payment. A quarrel ensued during which Aamir denied the allegation and, in self-defence, struck Hamza with a fist blow. During the scuffle, Hamza Bilal snatched Aamir's licensed pistol. Meanwhile, Aamir's brother Zia arrived. Aamir held Ali Raza, whereupon Ali Raza allegedly instigated Hamza Bilal to open fire. Hamza first fired at Zia, causing firearm injury, and upon further instigation, fired at Aamir, hitting him in the abdomen. Both brothers fell injured, and the accused persons escaped from the scene while taking away the snatched pistol. The injured were shifted to Trauma Centre, Civil Hospital Karachi for treatment. Aamir attributes specific roles to both

accused: Ali Raza for instigation, and Hamza Bilal for snatching the pistol and causing firearm injuries with intention to kill.

4. Heard. Record perused.

5. Learned counsel for the applicant contended that name of present applicant Zeeshan does not appear in the FIR; as per contents of FIR, only two nominated persons namely Chaudhary Ali Raza and Hamza Bilal attacked upon complainant Aamir Khan and his brother Zia; the name of present applicant was first time introduced in the statement under Section 161 Cr.P.C of brother of complainant which was recorded after 25 days of lodgment of FIR; his case is on similar footings to that of co-accused Muhammad Talha Bilal who was granted bail by trial Court, hence applicant is also entitled to concession of bail on rule of consistency. On these submissions, he urged, prosecution case against the applicant requires further inquiry under Section 497(2) Cr.P.C.

6. Learned Addl. P.G. duly assisted by learned counsel for the complainant opposed the bail on the grounds that the complainant and his brother both sustained firearm injuries and were medically unfit to furnish complete details at the time of lodging FIR; upon regaining consciousness and stability, the complainant and his brother nominated the present applicant with a specific role in their statements under Section 161 Cr.P.C.; mobile-phone video footage available with the Investigating Officer reflects presence of the applicant at the crime scene; CDR analysis shows telephonic contact between the applicant and co-accused at relevant time; two victims received firearm injuries attracting the prohibitory clause of Section 497 Cr.P.C.; and co-accused Muhammad Talha Bilal, who was earlier granted bail, has absconded thereafter, thus the rule of consistency cannot be invoked in favour of the present applicant.

7. Heard. Record perused.

8. From perusal of record, it appears that although present applicant Zeeshan was not named in the FIR lodged by the complainant through his statement under Section 154 Cr.P.C recorded by police when he was hospitalized after having received firearm injury in his abdomen; however, later on, a video footage, circulated in social media, was surfaced showing that besides two accused namely Hamza Bilal and Ali Raza, nominated in the FIR, applicant Zeeshan was also involved in the case, who at the time of occurrence by holding complainant Aamir played active role and facilitated main accused Hamza Bilal, who, on the instigation of accused

Ali Raza, fired at Zia as well as complainant Aamir. Moreover, the CDR record collected by police also confirmed presence of the applicant at the place of occurrence on particular date and time of incident. Therefore, complainant Aamir and P.W Zia, on getting stable health, recorded their statements under Section 161 Cr.P.C in which they implicated present applicant to the above effect. The specific role assigned to applicant by both injured witnesses in their statements under Section 161 Cr.P.C. is duly supported by video footage and CDR record cannot be discarded at this stage.

9. The worth and weight of the testimony of an injured witness cannot be diluted merely on the basis of an omission in the FIR, if the witness was grappling with serious injuries and was not in a fit state of mind to give a comprehensive account of the incident at the first available opportunity. The offence under Section 324 PPC, resulting in firearm injuries to two persons, squarely falls within the prohibitory clause of Section 497 Cr.P.C.

8. The contention regarding applicability of the rule of consistency is misconceived. The co-accused Mohammad Talha Bilal whose bail order is relied upon has admittedly jumped bail, which itself disentitles the applicant from seeking parity. The delay in nomination is satisfactorily explained by the injured witnesses who were under medical treatment immediately after the incident.

9. There is an established judicial opinion that mere possibility of further inquiry, which exists almost in every criminal case, is no ground for treating the matter as one under subsection (2) of section 497, Cr.P.C. The facts and circumstances of criminal cases immensely differ from each other, requiring assessment of culpability of an accused person within the purview of its own circumstances. Reliance is placed in the case **Haji Shah Behram v. the State and others (2021 SCMR 1983)** wherein august Supreme Court observed as under:

"Criminal cases, invariably resting upon vastly distinguishable facts, do not admit space for hard and fast rules, empirically applicable with any degree of unanimity in every situation; in each case culpability of an accused is to be assessed, having regard to its own peculiar facts and circumstances, therefore, determination of "sufficient grounds" in contradistinction to "further inquiry" has to be essentially assessed, with a fair degree of objectivity on the basis of evidence collected during the investigation; wording employed as "there are no reasonable grounds for believing that the accused has committed a non-bailable offence" is an expression of higher import and, thus, cannot be readily construed in the face of material, prima facie, constituting the offence complained. "Every hypothetical question which can be imagined would not make it a case of further inquiry simply for the reason that it can be answered

by the trial subsequently after evaluation of evidence" [PLD 1994 Supreme Court 65 (Shah Zaman and others v. The State and another)]. Similarly, "mere possibility of further inquiry which exists almost in every criminal case, is no ground for treating the matter as one under subsection (2) of section 497, Cr.P.C. [PLD 1988 Supreme Court 621 (Asmat Ullah Khan Vs. Bazi Khan and another)]. It clearly manifests that expression "further inquiry" is a concept far from being confounded in subjectivity or to be founded upon denials or parallel stories by the defence; it requires a clear finding deducible from the record so as to be structured upon a visible/verifiable void, necessitating a future probe on the basis of material hitherto unavailable."

Similarly, the application of "further inquiry" was also discussed in in the case of Arbab Ali v. Khamiso and others (1985 SCMR 195) wherein hon'ble Supreme Court held as under:

"It needs to be clarified that bail can be allowed (in a case otherwise allegedly falling under the prohibition contained in subsection (1) of section 467) under subsection (2) of section 487, Cr.P.C. when there are sufficient grounds, for further inquiry into the guilt of the accused but only on the condition when the Police Officer or the Court at any stage of investigation, inquiry or trial, as the case may be, comes to a definite conclusion that there are no reasonable grounds for believing that the accused has committed a non-Bailable offence. Without this finding bail cannot be allowed under subsection (2) on mere ground that there are sufficient grounds of further inquiry."

9. For what has been discussed above, prima facie, it appears that sufficient material is available on record to connect the applicant with the commission of crime. At this stage, applicant has failed to make out his case for grant on bail on the ground further inquiry within the meaning of Section 497(2) Cr.P.C. Resultantly, this Criminal Bail Application is dismissed.

10. The observations made herein are tentative in nature and shall not prejudice the trial Court at the time of final adjudication.

These are reasons of my short order dated 11.11.2025.

JUDGE

Shabir/PS