

IN THE HIGH COURT OF SINDH AT KARACHI

Bail App.No. 2277/2024

PRESENTED ON 07-12-2024

JAWED INYAT

S/O INYATULLAH, Muslim,
Adult, Presently Confined at
Central Jail, Karachi-----Applicant/Accused

Deputy Registrar
7008

H No. 150, Phase No. 1
B-C Road, Colony

VERSUS

The State -----Respondent

FIR No. 282/2023

U/s. 353/324/186/34PPC

P.S. Korangi

BAIL APPLICATION UNDER SECTION 497 CR.P.C.



1218

THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No.2879 of 2024

Applicant : Jawed Inayat son of Inayatullah
Through Mr. M. Khan, adv. for Applicant/accused.

Respondent : The State
Through Mr. M. Raza, Dy. Prosecutor General

Date of Hearing : 13.03.2025

Date of Order : 21.03.2025.

ORDER.

Jan Ali Junejo, J.— The present Criminal Bail Application has been filed on behalf of the Applicant/Accused, who is seeking post-arrest bail in connection with a case stemming from FIR No.282 of 2023, registered at P.S. Korangi, Karachi, under Sections 353/324/186/34, P.P.C. The Applicant/Accused initially approached the learned Sessions Court by filing Bail Application in Sessions Case No.2769 of 2023, which was subsequently dismissed by the Court of the learned Vth Additional Sessions Judge, Karachi-East, vide Order dated 02-05-2024.

2. The facts relevant to the present criminal bail application are as follows:

"On 10/05/2023 at approximately 11:05 PM, SI Syed Ibrar Hussain and his team, while on patrol in Korangi, Karachi, responded to gunfire near Noor Mustafa Road in Zaman Town, where a robbery had occurred, injuring a motorcyclist. The police chased three suspects, who dismounted their motorcycle near Government Boys Secondary School No. 1 and opened fire on the police officials. In self-defense, the police returned fire, injuring and apprehending two suspects—Jawed S/O Inayatullah and Muhammad Shahid S/o. Kabeer Ahmed—while the third escaped. Recovered from the suspects were unmarked 30-bore pistols, live ammunition, mobile phones, cash, and personal items, leading to charges of attempted murder, robbery, and illicit possession of firearms."

3. The learned counsel for the Applicant has argued that the applicant is innocent and has been falsely implicated due to non-payment of a bribe to the police. He further contends that the accused was returning from his duty place during a strike and was maliciously booked by the police to showcase their efficiency to higher officials. He argues that no empty



bullet casings were recovered, which negates the prosecution's claim of heavy firing, and neither the police party nor their vehicle was hit by any alleged firing. He asserts that all individuals mentioned in the FIR are police personnel, violating Section 103 Cr.P.C., and that the complainant failed to recover reliable evidence from the accused despite claiming his arrest on the spot. He further contends that no specific role has been assigned to the accused, and he was booked merely to demonstrate police efficiency. He argues that no arms were recovered from the accused, and the police falsely foisted weapons on him. He emphasizes that the accused has no prior criminal record or involvement in similar incidents, and the case does not fall under the prohibitory clause. He further contends that the police investigation does not establish the commission of any crime by the accused, and even if any offense is imposed, it does not fall within the prohibitory clause. He concludes by stating that the accused is neither previously convicted nor involved in any criminal case and prays for bail as the case still requires further inquiry under Section 497(2), Cr.P.C. In light of the above arguments and case laws, he prays that this Honorable Court may be pleased to grant bail to the applicant in the interest of justice.



4. The learned Deputy Prosecutor General (DPG) opposed the bail application and argued that the applicant was actively involved in the alleged crime, as evidenced by the FIR and the recovery of weapons from the co-accused. He further contends that the accused was part of a group that opened fire on the police party, demonstrating clear intent to harm, and the absence of bullet casings does not negate the occurrence of the firing. He argues that the police acted in self-defense, and the accused's attempt to flee and resist arrest further implicates him. The DPG asserts that the involvement of police personnel in the FIR does not violate Section 103 Cr.P.C., as they were performing their official duties. He

further contends that the recovery of weapons and other evidence from the scene supports the prosecution's case, and the accused's claim of being falsely implicated is baseless. The DPG emphasizes that the seriousness of the offense, including attempted murder and illegal possession of firearms, warrants the denial of bail. He concludes that the accused's release could jeopardize the investigation and public safety, and the case falls within the prohibitory clause, making bail inadmissible. Lastly, he prayed that the bail application should be dismissed in the interest of justice.

5. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Deputy Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. A careful examination of the case record reveals that the Applicant/Accused, Javed S/o. Inayat Ullah, is specifically nominated in the FIR with clear allegations of his involvement in a robbery attempt while armed, during which he and his co-accused caused a firearm injury to a victim before fleeing. He was later arrested in an injured condition following a police encounter, and crime weapons, including a loaded 30-bore pistol, were recovered from his possession. Additionally, an eyewitness of Crime No. 286/2023 identified the Applicant in the lockup, and he confessed to the crime in the presence of both the complainant and the eyewitness. The seriousness of the case is further aggravated by his involvement in another crime, where an innocent person lost his life in a robbery incident, highlighting his criminal propensity. The defense's contentions, including the absence of independent witnesses and denial of recovery, are not acceptable as the record clearly establishes his direct involvement, making any deeper appreciation of evidence unwarranted at this bail stage. Given the gravity of the offenses, the recovery of weapons, and the nature of the charges, which fall under the prohibitory clause, the Applicant is not



entitled to the concession of post-arrest bail. However, the Hon'ble Supreme Court of Pakistan in *Shameel Ahmed v. The State* (2009 SCMR 174) has categorically held that bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in *Afzaal Ahmed v. The State* (2003 SCMR 573), it was held that the mere fact that an offense does not fall within the prohibitory clause does not automatically render it bailable, and the Court retains discretion in granting bail based on established legal principles.

6. In light of the foregoing reasons, the present bail application filed on behalf of the Applicant, being devoid of substantive merit, is hereby dismissed. The observations made in this Order are limited to the adjudication of this bail application and will not affect the rights of either party during the trial. These are the reasons for the short Order dated: 13-03-2025.




JUDGE