

## IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2938 of 2025

**Applicants:** Nisar Amro, Fayaz and Shahzad Ali @ Mama Brohi through Mr. Liaquat Ali Jamari, Advocate

**Respondent:** The State  
Through Mr. Mohammad Noonari,  
D.P.G. Sindh

**Date of hearing:** 26.11.2025

**Date of order :** 26.11.2025

### O R D E R

**TASNEEM SULTANA, J.** Through this application, the applicants/accused seek pre-arrest bail in Crime No.318 of 2025 registered at Police Station Sujawal for offences under Sections **4, 5 and 8 of the Sindh Prohibition (Mawa) Act** and **section 337-J, P.P.C.** Earlier, the same relief was granted to the applicants by the learned Additional Sessions Judge-II, Sujawal, which was later on recalled vide order dated 04.10.2025.

2. Brief facts of the prosecution case are that complainant Inspector Zulfiqar Ali, Incharge Police Post Bello, Police Station Sujawal, stated that while on patrolling duty along with PC Zakaullah and PC Abdul Razaque in a government vehicle bearing Registration No.SPE-929, upon receipt of spy information, the police party proceeded towards Sujawal-Chuhar Road near Chandia Stop. It is alleged that upon reaching the pointed place, the accused persons namely Fayaz Ali s/o Ghulam Mohammad Jamari, Nisar s/o Siddique Amro, and Shahzad Ali @ Mama s/o Jan Mohammad Brohi allegedly fired straight shots from pistols upon the police party with the intention to commit their murder and to obstruct them in the discharge of official duty, and thereafter fled away. It is further alleged that during checking of a vehicle bearing Registration No.BRU-177, ten sacks containing 25 shoppers of mawa-gutka, each shopper having 22 puries, totaling 5,500 puries, were recovered; out of which 10 puries were separated and sealed for chemical examination, whereas the remaining alleged contraband was sealed at the spot through mashirnama in the presence of police mashirs. Hence, this case.

3. Learned counsel for the applicants contended that the applicants have been falsely implicated due to mala fide and previous hostility with the police; that none of the applicants was arrested from the place of incident and no recovery was effected from their exclusive possession; that the entire case is based upon spy information and the prosecution has failed to associate any independent witness despite their availability; that the alleged recovery proceedings have been shown through police personnel only; and that section 337-J PPC has been mechanically added, as no specific injury has been attributed to any applicant. It was further contended that the applicants are being subjected to harassment and seek protection of law.

4. Conversely, learned DPG opposed the application mainly on the grounds that the applicants are nominated in the case; that the prosecution has alleged straight firing upon police party; that a huge quantity of contraband has been recovered from the vehicle allegedly left behind by the accused persons while fleeing; and that the applicants are not entitled to the concession of pre-arrest bail.

5. Heard. Record perused.

6. The allegation against the applicants, as emerging from the prosecution version, is that upon spy information the police party proceeded to the pointed place where the applicants, along with co-accused, allegedly fired upon the police officials, obstructed them in the discharge of official duty and fled away, leaving behind a vehicle from which a large quantity of mawa-gutka was allegedly recovered.

7. However, a tentative assessment of the material brought on record shows that the applicants have been attributed a general and omnibus role of firing, without specification as to which particular applicant fired, and no specific injury has been attributed to any particular applicant. Admittedly, none of the applicants was apprehended at the place of occurrence, and the alleged recovery is not shown to have been effected from the exclusive possession of any applicant.

8. It further appears that no independent witness from the locality was associated with the recovery proceedings, though Section 103 Cr.P.C. envisages association of respectable inhabitants of the locality to ensure transparency and to lend confidence to such proceedings. In the instant case, when the alleged recovery is said to have been effected at a public place and in broad daylight, no plausible justification has been shown for

non-association of independent witnesses, which, at this stage, creates dent in the prosecution stance.

9. Moreover, the alleged recovery proceedings, at this stage, appear to have been documented entirely through police personnel, who were not only members of the raiding party but also acted as mashirs, which *prima facie* reduces the independent corroborative worth of the proceedings. Coupled with the fact that none of the applicants was apprehended from the place of incident, and the alleged recovery is not shown to have been effected from the exclusive possession of any particular applicant, the prosecution version, for the present purpose, calls for further enquiry. Likewise, the applicability of Section 337-J PPC, *prima facie*, requires determination at trial, particularly when no specific injury has been attributed to any applicant in the available material.

10. It is settled proposition of law that bail is not to be withheld as a punishment. No legal or moral compulsion exists to keep the people in jail merely on the allegation that they have committed certain offences, unless the case is supported by material disclosing reasonable grounds to connect the accused with the commission of the alleged offence. Ultimate conviction and incarceration of a guilty person can repair the wrong caused by mistaken relief of bail after arrest granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run. Reliance is placed in the cases reported as **Zaigham Ashraf v. The State and others (2016 SCMR 18)** and **Haji Muhammad Nazir and others v. The State (2008 SCMR 807)**

11. The law relating to pre-arrest bail is well settled that such extraordinary relief may be granted where the accused establishes *mala fide*, *ulterior motives*, or misuse of authority by police, or where arrest appears to be intended for harassment rather than investigation. In the present case, the material placed on record *prima facie* shows that the prosecution case against the present applicants calls for further enquiry under Section 497(i) Cr.P.C.

12. In view of above discussion, at this stage, on tentative assessment of the material brought on record, I am of the considered view that the applicants have made out their case one of further enquiry and they are entitled to the concession of bail. Consequently, instant bail application was allowed by this Court and the interim pre-arrest bail already granted to the applicants was confirmed on the same terms and conditions vide short order

dated 26.11.2025 and these are reasons thereof. The applicants shall join the investigation or trial, as the case may be, and shall not misuse the concession of bail.

13. Needless to observe that the observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

**JUDGE**