

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-861 of 2025

Applicants : 1) Ashraf Ali S/o Chanesar, by caste Morejo
2) Sikandar Ali s/o Qadir Bux, by caste Shaikh
Through Mr. Shoukat Ali Makwal, Advocate

&

Cr. Bail Appln. No. S-870 of 2025

Applicant Allah Dad S/o Jalaluddin, by caste Lakho
Through Mr. Mehboob Ali Wassan, Advocate

Complainant : Rafique Ahmed S/o Muhammad Abbas, Indhar
Through M/s Hamayoun Sheikh and Asif Rajput,
Advocates/Legal Advisor & Law Officer SSGC

The State : *Through* Mr. Mansoor Ahmed Shaikh, DPG

Date of hearings : 26.01.2026

Date of order : 26.01.2026

Reasons recorded on : 29.01.2026

O R D E R

KHALID HUSSAIN SHAHANI, J.— By this single order, Criminal Pre-Arrest Bail Applications No. S-861 of 2025 and S-870 of 2025 arising out of Crime No.210 of 2025, for offences under Sections 15, 17, 24 and 82 of the Gas (Theft Control and Recovery) Act, 2016, registered at Police Station B-Section, Khairpur, are being decided. The applicants seek confirmation of ad-interim pre-arrest bail granted by this Court vide orders dated 15.09.2025 and 16.09.2025, after dismissal of their earlier bail pleas by the learned Sessions Judge, Khairpur, on 11.09.2025.

2. As per FIR, lodged on 05.06.2025 at 1700 hours by complainant Rafique Ahmed Indhar, Manager/Deputy Manager FIR Cell SSGC-CGTO Sukkur, on 03.06.2025 at about 1300 hours he, along with Deputy Manager SSGC Ubedullah and Senior Superintendent Abdul Karim, proceeded in official Cultus Car No. AVD-716 to Khairpur city for checking gas pipelines and meters and, on reaching a private canteen inside Civil Hospital Khairpur, allegedly found an iron frame measuring about 6/7 feet fitted with three gas stoves having 32 nozzles, connected with iron gas pipes and using heavy quantity of commercial

gas. At the spot, the present applicants were allegedly found and identified; on inquiry, they supposedly disclosed that the gas meter had been disconnected and gas was being used through a direct illegal connection from the main government gas line, whereafter they allegedly escaped. The complainant states that photographs were taken, illegal connection was confirmed, one iron frame with three stoves, injector rod pipe and other material were seized, report was sent to higher authorities through letter No.25/3387 dated 03.06.2025. Consequent upon; case was registered *inter alia* on the above facts.

3. Learned counsels for the applicants argued that the applicants are innocent and have been falsely implicated with *mala fide* and ulterior motives; no offence of gas theft has been committed by them and the prosecution story is fabricated. It is contended that applicant Allah Dad, a government servant (Senior Clerk BPS-14, Health Department), had already been relieved from Civil Hospital Khairpur before the alleged occurrence and had no concern with the private canteen or alleged illegal connection, while applicants Ashraf Ali and Sikandar Ali are merely suppliers, not owners or users of gas. It is further argued that there is an unexplained delay of two days in lodging the FIR despite the police station being hardly one kilometre away, no specific role is assigned to any applicant except presence, all witnesses are SSGC officials and no independent person has been associated, and that prior to the FIR, applicant Allah Dad had filed a constitutional petition against hospital authorities and has been falsely roped in at their instance. It is also pointed out that applicants have joined investigation, cooperated with police and are not likely to abscond or tamper with evidence.

4. Learned DPG, assisted by learned Law Officer SSGC, opposed the bail on the ground that the applicants are specifically named in the FIR, were allegedly found present at the scene, and were benefiting from an illegal direct gas connection for commercial use, that illegal appliances and pipelines were recovered and photographed, and that sufficient *prima facie* material connects

them with the alleged offence; therefore, no ground for extraordinary relief of pre-arrest bail is made out.

5. Pre-arrest bail is an extraordinary relief, to be granted only where *mala fide*, ulterior motive, abuse of process or a case of further inquiry within the meaning of Section 497(2) Cr.P.C, is made out, and is essentially meant to protect an accused from unjustified arrest and humiliation rather than to substitute ordinary post-arrest bail.

6. In the present case, the applicants are not shown in the FIR or record to be owners of the premises or of the gas connection. The alleged incident occurred in a private canteen located within premises of Civil Hospital Khairpur, a government institution, whose administration, control and allotment of canteen space lies with hospital authorities, yet neither the Medical Superintendent nor any responsible hospital official nor any recorded allottee/owner of the canteen has been arrayed as accused. This omission *prima facie* raises serious doubt as to who, in law, bore responsibility for installation, maintenance and legality of the gas connection and thus attracts the principle of “further inquiry” under Section 497(2) Cr.P.C.

7. The prosecution describes the applicants as contractors or persons managing the canteen. However, when specifically asked, neither side could produce any contract, licence or written agreement to show on what terms the canteen was given to them, or that responsibility for the gas connection was explicitly placed upon them. Such document has not been produced despite sufficient opportunity, which leaves their exact role and legal liability in dispute and, at this stage, renders their involvement in the alleged theft doubtful, requiring deeper probe falling within the ambit of further inquiry.

8. The FIR further records that on inquiry the applicants disclosed that the meter was disconnected and direct gas was being used, yet it remains unexplained who allowed or installed such direct connection from the main line in a government hospital and under whose authority this was done. This

unresolved question of responsibility for creating or permitting the alleged illegal connection also calls for further inquiry and does not justify treating the applicants' guilt as clear at the bail stage.

9. As regards applicant Allah Dad, the record indicates that he is a government servant alleged to have been relieved from Civil Hospital Khairpur before the incident, and there is no documentary proof that he retained control over the canteen or gas installation at the relevant time. In the context of his prior constitutional petition against the hospital authorities, his implication gives rise, at least *prima facie*, to an inference of possible *mala fide* and collateral motive, which is a recognized ground for grant of pre-arrest bail by the superior Courts.

10. All witnesses cited in the FIR are SSGC officials subordinate to the complainant, and no independent witness from the hospital administration or locality has been associated, although the raid took place in a public/government premises. While strict applicability of Section 103 Cr.P.C, may not be insisted upon in every such raid, the complete absence of any independent witness in these circumstances supports the defence contention that the prosecution evidence will require cautious scrutiny at trial and that, at present, the case cannot be treated as free from doubt.

11. The FIR was lodged with a delay of two days despite the police station being close to the place of occurrence, and no satisfactory explanation has been advanced for such delay. This, coupled with the background dispute of applicant Allah Dad with hospital authorities, reasonably suggests that the matter may have been deliberated before setting the law in motion, thereby strengthening the inference of *mala fide* and, at least, making the case one of further inquiry, to which the benefit must go to the accused even at bail stage.

12. The applicants have remained on ad-interim pre-arrest bail for some time, have joined investigation and there is no allegation of misuse of concession, absconcence or tampering with prosecution evidence. In such a situation, refusal to confirm pre-arrest bail, despite clear elements of further inquiry and

indications of possible *mala fide*, would amount to using arrest as a means of oppression, which the law does not permit.

13. For these reasons, the applicants have succeeded in making out a case of further inquiry within the meaning of Section 497(2) Cr.P.C, coupled with *prima facie* indications of *mala fide*/ulterior motive in their implication; hence the concession of pre-arrest bail merits confirmation.

14. Resultantly, Criminal Bail Applications No. S-861 of 2025 and S-870 of 2025 are allowed. The ad-interim pre-arrest bail earlier granted to the applicants vide orders dated 15.09.2025 and 16.09.2025 is hereby confirmed on the same terms and conditions.

15. The observations made herein are tentative, confined to the disposal of these bail applications, and shall not prejudice either party at trial, which shall be decided by the learned trial Court strictly in accordance with law and on the basis of evidence produced before it.

J U D G E