

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-395 of 2026

Applicant: Muhammad Nadeem s/o Muhammad Saleem.
Through Mr. Hussain Bux Sario, Advocate.

Complainant
Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, D.P.G.

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Date of hearing: 20.07.2026

Date of Order: 20.07.2026

ORDER

KHALID HUSSAIN SHAHANI, J.—By means of the aforementioned bail applications, the applicant beseeches this Court for enlargement on post-arrest bail in Crime No.133 of 2026, registered under Sections 324, 398 and 401 P.P.C. at Police Station Umerkot City, together with its offshoot F.I.R. No.134 of 2026, registered under Section 23(1)(a) of the Sindh Arms Act, 2013, at the self-same police station.

2. The prosecutorial edifice, as it emerges from the F.I.R. lodged by the complainant SIP Bahadur Khan Khaskheli, rests upon the narrative that on 02.06.2026, while the police contingent was engaged in routine patrol duty aboard official vehicle No. SPG-027, it chanced upon a motorcycle standing unattended along the southern verge of the Umerkot–Dhoronaro road, in the vicinity of Adtio Water, with two individuals, later identified as the accused stationed nearby, armed with pistols. Mistaking the approaching police mobile for a private conveyance, the accused are alleged to have signalled it to halt; and upon the vehicle coming to rest and the police personnel alighting therefrom, to have unleashed direct fire upon the party with murderous design. The police, resorting to defensive counter-measures, are said to have overpowered and apprehended both assailants without themselves sustaining injury. A contemporaneous search, memorialized in a joint recovery memorandum, is stated to have yielded from the applicant an unnumbered .30-bore pistol with a magazine containing three live rounds, giving rise to the ancillary Crime No.134 of 2026 under the Sindh Arms Act, together with cash of Rs.3,25,000/-, purportedly the proceeds of an antecedent theft already forming the subject-matter of Crime No.126 of 2026 under Sections 379/420/34 P.P.C. A parallel recovery from the co-accused Sabir Hussain, comprising an unnumbered .32-bore pistol with four live rounds and a further sum of Rs.1,50,000/- traceable to the same theft, occasioned ancillary Crime No.135 of 2026. An unregistered

black Honda-125 motorcycle was also seized, culminating in the registration of the instant F.I.R.

3. F.I.R. No.134 of 2026, lodged contemporaneously, pertains to the recovery of an unlicensed .30-bore pistol with three live rounds from the applicant during the very same search operation.

4. Learned counsel for the applicant, addressing the Court with considerable force, submits that the implicating allegations bear the unmistakable imprint of mala fide and ulterior contrivance; that it defies credulity that, despite the alleged exchange of fire, not a single member of the police party sustained even a superficial injury, nor did the official vehicle exhibit any mark of impact; that the case property has, in substance, been foisted upon the applicant to fortify an otherwise infirm prosecution narrative; that the co-accused Sabir Hussain has already been extended the concession of post-arrest bail by this Court, thereby squarely attracting the rule of consistency; and that the matter, in its totality, warrants further inquiry within the contemplation of Section 497(2), Cr.P.C. He accordingly prays for the applicant's enlargement on post-arrest bail.

5. Learned Deputy Prosecutor General, with commendable candour, has not resisted the applicant's prayer and has fairly conceded that the co-accused Sabir Hussain already stands admitted to post-arrest bail by this Court.

6. This Court has heard learned counsel for the respective parties at considerable length and, with the benefit of their able

assistance, has subjected the material on record to anxious and searching scrutiny.

7. It is, notably, the prosecution's own case that the applicant and the co-accused had congregated at the site of occurrence with the design of perpetrating robbery. Yet the law does not permit conviction upon suspicion masquerading as certainty: to sustain a charge under Section 398 P.P.C., intention and preparation are not peripheral embellishments but the very sinews of the offence, and the prosecution has, at this threshold stage, conspicuously failed to demonstrate their presence. More tellingly still, the alleged exchange of fire, the fulcrum upon which the graver charge under Section 324 P.P.C. is made to turn, proved entirely barren of consequence. Not a single police official sustained so much as a scratch; the official vehicle bore no trace, however faint, of any impact. Such an utter absence of physical corroboration cannot be dismissed as a trivial evidentiary gap, it strikes at the very plausibility of the prosecution's account and renders the applicability of Section 324 P.P.C. a matter that must, in fairness, abide the crucible of trial rather than the summary threshold of bail. It bears further emphasis that the minimum sentence prescribed under Section 398 P.P.C. is seven years' imprisonment, and it is a well-settled canon of criminal jurisprudence, one this Court is bound to apply with fidelity that at the bail stage it is the lesser punishment attracted by the offence that governs the exercise of discretion, the ultimate quantum of sentence being a matter reserved for the trial court's considered judgment upon full appraisal of evidence.

8. Equally compelling is the consideration of parity, a principle this Court cannot lightly set aside. The co-accused Sabir Hussain, to whom an identical role in the occurrence stands attributed, and from whose possession an unlicensed pistol with live rounds was allegedly recovered in circumstances indistinguishable from those pressed against the present applicant, has already been extended the concession of post-arrest bail by this Court, a fact fairly and candidly conceded by learned Deputy Prosecutor General. The prosecution has placed nothing before this Court, nor could it, to mark out any feature that would separate the applicant's culpability from that of his co-accused. Where the record yields no such distinction, the law does not tolerate a divergence in outcome born merely of the happenstance of sequence. It is axiomatic that similarly placed accused persons must receive similarly placed treatment; to hold otherwise would be to permit an arbitrariness that the rule of consistency exists precisely to forestall. The applicant, in these circumstances, cannot be made to suffer continued incarceration for no reason more substantial than the timing of his application relative to that of his co-accused.

9. In light of the foregoing considerations, this Court is persuaded that the case set up against the applicant is one calling for further inquiry within the contemplation of Section 497(2), Cr.P.C. Accordingly, the instant bail applications are allowed, and the applicant, Muhammad Nadeem, is admitted to post-arrest bail subject to his furnishing surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) in each crime, together with a

personal recognizance bond in the like amount, to the satisfaction of the learned trial court.

10. The observations recorded herein are of a strictly tentative character and shall not be construed as prejudicing either party at trial.

JUDGE

****Adnan Ashraf Nizamani****