

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.664 of 2026

Applicant : Muhammad Moosa S/o Moj Ali
through Mr. Saqib Ali, Advocate

Complainant : Muhammad Aslam S/o Shakoor
through Mr. Imdad Ali Malik, Advocate

Respondent : The State
through Mr. Sharafuddin Kanhar,
A.P.G., Sindh

Date of hearing : 30.07.2026

Date of order : 30.07.2026

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.797/2025 for the offence under Sections 324/34 PPC registered at PS Sohrab Goth, after his bail plea has been declined by the learned Additional Sessions Judge-II, Malir vide order dated 26.02.2026.

2. The details and particulars of the FIR are already available in the memo of bail application, therefore, the same need not to be reproduced hereunder.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in this case; that due to previous enmity, he has been booked in this case, otherwise he was present at Jirga at the time of occurrence. However, when he has been confronted whether he has any video or documentary proof available with him justifying his presence at Jirga at the relevant time, he replied in negative. He further contended that the applicant is attending the Court and has not misused the concession of bail, therefore, he is entitled for confirmation of bail.

4. On the other hand, learned counsel for the complainant and learned A.P.G. have opposed for confirmation of bail on

the ground that the ocular evidence finds support from the medical evidence; that the empties were also recovered from the place of incident; that there is no evidence on record to believe that the applicant has not committed the alleged offence, however, I.O. has malafidely disposed of the case but the learned Magistrate did not agree with the proposal made by the I.O. and took the cognizance of the offence. In support of his contention, learned APG has relied upon the orders passed in unreported cases Gulshan Ali Solangi and others vs. The State (2020 SCMR 249) CrI. Bail Application No.S-624 of 2022 [Ghulam Mustafa Brohi vs. The State], High Court of Sindh, Circuit Court, Larkana, CrI. Bail Application No.S-126 of 2024 [Sanaullah vs. the State] of High Court of Sindh, Sukkur Bench and CrI. Misc. Application No.27 of 2026 [Fawad alias Mani vs. the State] passed by the learned Islamabad High Court.

5. Heard arguments and perused the record.

6. A careful perusal of the record reveals that the name of the applicant has been specifically nominated in the FIR with a distinct and active role. It is alleged that on the day of the occurrence, the applicant, in concert with his co-accused, arrived at the place of incident and made straight firing upon the injured, causing firearm injuries on his abdomen and right thigh, while the windshield of the vehicle was also shattered as a consequence of the firing. The injured was immediately shifted to the hospital, where the Medical Officer issued a provisional medico-legal certificate, which lends corroboration to the prosecution's version. The ocular account is further reinforced by the medical evidence available on record. Prima facie, the material presently available is sufficient to connect the applicant with the commission of the alleged offence.

7. As regards the contention advanced by the learned counsel for the applicant that the applicant was attending a *Jirga* at the time of the alleged occurrence, the same does not

merit acceptance at this stage. The applicant has failed to produce any documentary or other reliable evidence, including any video recording or independent material, to substantiate his plea of alibi or to establish his presence at the alleged *Jirga* at the relevant time. A bare assertion, unsupported by any credible material, is insufficient to displace the prosecution's version at the bail stage. It is a settled principle of criminal jurisprudence that the plea of alibi constitutes a matter of defence and must be established by the person who sets it up through cogent and convincing evidence. At present, no such material has been brought on record by the applicant to prima facie substantiate the said plea.

8. It is equally well-settled that the concession of pre-arrest bail is an extraordinary relief which can only be extended where the Court is satisfied that the proposed arrest of an accused is actuated by mala fide, ulterior motives, or abuse of the process of law at the hands of the complainant or the investigating agency. In the present case, not even a semblance of material has been brought on record to suggest any mala fide, ill-will, personal vendetta or ulterior motive on the part of either the complainant or the investigating officer, which could reasonably justify the inference that the applicant has been falsely implicated. In this regard, reliance may aptly be placed upon the dictum laid down by the Honourable Supreme Court of Pakistan in *Rana Abdul Khaliq v. The State and others* (2019 SCMR 1129), wherein it has been held that pre-arrest bail is an extraordinary remedy in criminal jurisprudence, constituting a deviation from the normal course of law relating to arrest in cognizable offences. Such relief is intended solely to protect an innocent person from harassment through mala fide prosecution and cannot be treated as a substitute for post-arrest bail in ordinary criminal cases. Since the grant of pre-arrest bail has the potential to impede the course of investigation, an applicant seeking such extraordinary relief is under a legal obligation to

establish, through cogent material, that the intended arrest is motivated by mala fide and is designed merely to humiliate or harass him. In the instant case, learned counsel for the applicant has failed to point out any circumstance indicating mala fide, personal enmity or ulterior motive on the part of either the complainant or the investigating agency so as to persuade this Court to conclude that the applicant has been falsely implicated.

9. For the foregoing reasons, I am of the considered view that the applicant has failed to make out a case either for confirmation of pre-arrest bail or for extending the benefit of further inquiry within the contemplation of Section 497(2), Cr.P.C. Consequently, the interim pre-arrest bail granted to the applicant vide order dated **04.03.2026** is hereby recalled, and the instant bail application is **dismissed**.

10. It is clarified that the observations made hereinabove are purely tentative in nature, confined solely to the disposal of the present bail application, and shall not, in any manner, prejudice or influence the learned trial Court while deciding the case strictly on its own merits and in accordance with law.

JUDGE

Kamran/Ps