

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**Crl. Bail Application No. S- 358 of 2026**

Applicants: Azizullah son of Attaullah Shah **through**
Mr. Muhammad Aslam Roshan, Advocate.

Complainant: **Through Mr. Muhammad Ali Nappar,**
Advocate.

The State **Through Mr. Shafi Muhammad Mahar ,**
Deputy Prosecutor General, Sindh.

ORDER.
07.10.2026.

Suresh Kumar, J.--- Through instant bail application, applicant named above seeks confirmation of the ad-interim pre-arrest bail granted to him by this Court vide order dated 27.04.2026, in a case bearing crime No.104/2022, offence u/s 387, 384, 324, 337-H(2), 504 PPC registered at Police Station Pirjogoth.

2. The crux of the prosecution case relies upon that present applicant along with others made fire shots with their KKs upon brother of complainant and brother-in-law Jeeal Shah, who resultantly became injured due to non-payment of extortion money and thereafter FIR was lodged.

3. I have heard the learned counsel appearing on behalf of the applicant/accused and learned DPG assisted by learned counsel for complainant.

4. Learned counsel for the applicant has contended that there is a delay of 32 hours in lodging the FIR. He has further contended that the applicant/accused was found innocent during the investigation and placed in column No. 2 of the challan. He has also contended that 15

empties were recovered from the scene of the incident, while the forensic report reveals that all empties were fired from one and the same weapon. Lastly, he has contended that the applicant has been falsely implicated; therefore, interim pre-arrest bail may be confirmed. He has relied upon the case laws 2022 SCMR 1954, 2022 SCMR 663, 2022 SCMR 198, 2000 P.Cr.L.J 1816, and 1996 SCMR 1023..

5. Learned counsel for the complainant has strongly opposed the confirmation of pre-arrest bail. He has contended that the forensic report does not reveal that all 15 empties were fired from one and the same weapon. He has also contended that both injured parties sustained injuries, and the nature of these injuries falls within the prohibitory clause of section 497(1) Cr.P.C. Furthermore, he has contended that the conduct of the applicant should be considered, as he was not present at the time of the announcement of bail before the learned Additional Sessions Judge, while the learned DPG has adopted the arguments advanced by the counsel for the complainant.

6. Having given due consideration to the arguments advanced by the counsel for the respective parties, I have perused the relevant material. From the perusal of the FIR, it reveals that the applicant/accused is nominated in the FIR with the role of firing along with co-accused as a result, injured Ashfaq Shah sustained two firearm injuries, and Jeel Shah sustained four firearm injuries. The injuries sustained by Ashfaq Shah have been declared as Ghyr-jaifah mutalahima and Ghyr-jaifah munaqillah, and the injuries sustained by Jeel Shah have also been declared as Jurh Ghayr-jaifah mutalahimah. The aforementioned injuries are punishable by up to 10 years and fall within the prohibitory clause of section 497(1) Cr.P.C. Learned counsel has pointed out a 32-hour delay in

lodging the FIR, but this delay has been plausibly explained by the complainant in the FIR, as the injured were in serious condition; therefore, the complainant took a letter from the police station and shifted the injured to the hospital for treatment. Even otherwise, delay per se is not a valid ground on which bail can be granted to an accused facing trial for capital offences. In this regard, reliance is placed on the case of *Karamat Ali vs. State* (1979 SCMR 438). The version of the complainant regarding the role of the present accused is fully supported by the injured witnesses as well as the medical evidence; therefore, there is sufficient material available on record that connects the applicant/accused with the commission of the offence. Learned counsel for the applicant has also contended that the accused was found innocent during the investigation. It is settled law that a declaration of innocence by the police during the investigation is not a valid ground for the grant of bail. In this regard, reliance is placed on the case of *Shoukat Illahi vs. Javed Iqbal and others* (2010 SCMR 966). As far as 15 empties recovered from place of incident is concerned, forensic report does not reveal that all empties were fired from one and same weapon. Moreover, no mala fide on the part of the complainant has been brought on record to suggest that the applicant/accused has been falsely implicated.

7. With due respect and regard to the case laws cited by the counsel for the applicant, the facts and circumstances of those cases are quite distinguishable from the facts of the present case; therefore, they are not applicable.

8. For the foregoing reasons above and guidance taken from above case law, I am of considered view that applicant/accused has not made out his case for pre-arrest bail, therefore, his bail application is dismissed.

Consequently, interim pre-arrest order dated 27.04.2026 is re-called with directions to surrender before trial Court.

9. Needless to mention that the above observations are tentative in nature and will not prejudice the case of parties at the time of trial.

JUDGE

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Trial Court is directed to dispose of the matter expeditiously preferably within three months under intimation to Additional Registrar of this Court.