

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

**Present:**

**Mr. Justice Abdul Mobeen Lakho**

**Mr. Justice Zulfiqar Ali Sangi**

Criminal Bail Application No.D-141 of 2026

Criminal Bail Application No.D-166 of 2026

Applicants: Shoab and Shauban Ali through M/s. Ghulamullah Chang, Nabi Bux Saand, Shahed Mirbahar and Muhammad Achar Jalbani, Advocate.

Respondent: The State through Ms. Rameshan Oad, Deputy Prosecutor General, Sindh along-with Inspector Kubhar Khan PS LTD Hyd., Inspector Asif Hayat SHO CTD Hyd.

Date of hearing: **13.08.2026**

Date of decision: **13.08.2026**

**O R D E R**

**ZULFIQAR ALI SANGI, J:-** By this common order, we propose to decide the captioned Criminal Bail Applications filed by the above-named applicants/accused, as all these applications arise out of one and the same FIR, being Crime No.08 of 2025, registered at Police Station CTD, Hyderabad, for offences punishable under Sections 4/5 of the Explosive Substances Act, 1908, read with Sections 6/7 and 21(I) of the Anti-Terrorism Act, 1997, and Section 34, P.P.C. The applicants had earlier approached the learned Trial Court for the concession of post-arrest bail; however, their applications were declined vide impugned order dated 17.03.2026. Hence, the present applications.

2. Briefly stated, the prosecution case, as unfolded in the FIR, is that complainant ASI Musharraf Ali, while on routine patrolling duty, allegedly received spy information regarding the presence of certain suspicious persons. Acting upon such information, the complainant, accompanied by police officials, proceeded towards New Link Road, Village Shahmir Shoro, near the Grid Station. It is alleged that, in the light of the police vehicle, four persons were seen standing at the spot. Out of them, three persons were apprehended, whereas one person succeeded in escaping by taking advantage of darkness. Upon their

search, one hand grenade was allegedly recovered from the possession of applicant/accused Shoaib, besides a touch-screen mobile phone and a black-coloured purse containing cash amounting to Rs.17,000/- in different denominations. Likewise, one hand grenade was allegedly recovered from the left-side pocket of the shirt of applicant/accused Shauban. It is further alleged that, upon inquiry, the accused disclosed that, on the instructions of their alleged commander, namely Noor Chandio, they were proceeding towards the railway track with the intention of committing an act of terrorism. The recovered explosive material was allegedly weighed and found to be 440 grams. Consequently, the present FIR was registered against the applicants and their co-accused on behalf of the State.

3. Learned counsel for the applicants, while seeking their admission to post-arrest bail, contended that the applicants are innocent and have been falsely implicated in the present case due to ulterior motives and mala fide on the part of the police. It was argued that the prosecution story is required to be examined in the backdrop of the applicants' specific plea that, on 22.04.2025, they, along with other villagers, had travelled to Sukkur to participate in a protest at Babarlo Bypass, organized under the leadership of lawyers of Sindh against the proposed extraction of six canals from the River Indus. According to learned counsel, while the applicants and other villagers were returning to their village on 24.04.2025 and had reached Hala Naka, Hyderabad, they were allegedly abducted by unknown persons who, from their appearance, appeared to be members of law-enforcement agencies. It was further submitted that applications regarding their alleged illegal detention were moved before the SSP, Hyderabad, and other competent authorities. Although seven other villagers were subsequently released, the present applicants allegedly remained in unlawful custody and were demanded bribe for their release. Being members of a poor family, they allegedly refused to meet such demand, whereafter they were falsely implicated in the present case.

4. Learned counsel further contended that the provisions of the Anti-Terrorism Act, 1997, have been invoked mechanically and without lawful justification, as there is no allegation or material demonstrating that the applicants committed any act intended to create terror, fear or insecurity amongst the public or a section thereof. It was argued that the prosecution has failed to bring on record any independent material

connecting the applicants with any militant organization or terrorist group, or establishing that they were acting pursuant to the directions of any alleged commander. According to learned counsel, the applicants were allegedly abducted on 24.04.2025 and remained in illegal custody for approximately four months before their formal implication in the present case on 19.08.2025, which circumstance, coupled with the filing of Constitutional Petition No.D-745 of 2025 before this Court, prima facie lends support to the plea of mala fide and subsequent false implication.

5. It was also contended by the counsel for the applicants that, despite the alleged place of arrest being situated on a link road near a populated village and a Grid Station, no private person from the locality was associated with the arrest and recovery proceedings. The mashirnama was prepared only in the presence of police officials. Learned counsel emphasized that no independent witness has been cited to corroborate the alleged recovery, notwithstanding the requirements of Section 103, Cr.P.C. It was further argued that no serial number or other distinctive identification of the alleged hand grenades has been mentioned; nor has the Investigating Officer collected any tangible or independent material establishing the applicants' connection with any militant organization or their alleged intended terrorist activity. It was, therefore, contended that the prosecution material, when tentatively assessed, does not furnish reasonable grounds for believing the applicants to be guilty and, at the very least, their case squarely falls within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C.

6. Conversely, learned Deputy Prosecutor General, appearing for the State, opposed the grant of bail and supported the impugned order. He contended that the applicants are specifically nominated in the FIR and that hand grenades have been recovered from their respective possessions. He further submitted that the offences alleged against the applicants are grave and heinous in nature, involve explosive material, and fall within the prohibitory clause of Section 497, Cr.P.C. According to learned DPG, the available material sufficiently connects the applicants with the commission of the alleged offences and, therefore, they do not deserve the concession of bail.

7. We have heard learned counsel for the applicants/accused as well as learned DPG for the State and have carefully examined the available

record with their assistance. At the outset, it may be observed that while exercising jurisdiction under Section 497, Cr.P.C., particularly at the stage of post-arrest bail, the Court is not required to conduct a detailed examination or deeper appreciation of the evidence. The exercise is essentially confined to making a tentative assessment of the material available on record for determining whether there exist reasonable grounds for believing that the accused is guilty of an offence punishable with death, imprisonment for life or imprisonment for ten years, or whether the case falls within the scope of further inquiry under Section 497(2), Cr.P.C. Any observation made at this stage is necessarily tentative and cannot be treated as an expression of final opinion on the merits of the case.

8. The admitted position emerging from the record is that one hand grenade is allegedly attributed to each of the present applicants. The alleged recovery, therefore, constitutes an important circumstance against them and cannot be brushed aside altogether at the bail stage. Nevertheless, the mere factum of recovery does not, by itself, conclude the question of guilt, particularly where the surrounding circumstances of such recovery, the manner in which it was affected, and the remaining connecting evidence require further examination. In the present case, apart from the alleged recovery, the prosecution has not been able, at this stage, to point out any independent and tangible material demonstrating the applicants' association with any militant or terrorist organization. Similarly, no convincing independent material has been brought on record to substantiate the allegation that the applicants were acting on the instructions of their alleged commander Noor Chandio or that they were actually proceeding to the railway track for the purpose of committing an act of terrorism. The alleged disclosure attributed to the applicants before police officials, in the absence of independent corroboration, cannot, at this tentative stage, be treated as sufficient material to conclusively establish the alleged design or intention.

9. It is also significant that the prosecution allegedly possessed prior spy information and, according to its own case, reached a place situated near a populated locality and a Grid Station. Despite such circumstances and the alleged availability of sufficient opportunity, no private person from the locality was associated with the arrest or recovery proceedings. We are conscious of the settled proposition that the testimony of a police official cannot be discarded merely on account of his official status, and

that non-association of private witnesses is not, in every case, by itself fatal to the prosecution. However, where the circumstances indicate that independent witnesses could reasonably have been associated, their non-association may constitute a relevant circumstance while examining whether the accused's case requires further inquiry, particularly when such circumstance is considered cumulatively with other deficiencies appearing in the investigation. The plea of the applicants regarding their alleged illegal detention prior to their formal implication, their participation in the Babarloo Bypass protest, the filing of Constitutional Petition No.D-745 of 2025, and the alleged delay between their apprehension and formal arrest/implication are also circumstances which cannot, at this stage, be altogether ignored. Whether these allegations are ultimately established or otherwise is a matter to be determined by the Trial Court upon appreciation of evidence. However, for purposes of bail, these circumstances, when read together with the absence of independent corroborative material connecting the applicants with any terrorist organization or the alleged terrorist design, create a degree of doubt requiring further probe. In this regard, guidance may appropriately be drawn from the judgment of the Hon'ble Supreme Court in **Muhammad Noman v. The State and another (2017 SCMR 560)**, wherein the Hon'ble Supreme Court emphasized the necessity of examining the quality and fairness of investigation even in cases involving serious allegations relating to explosives and terrorism. The principle is not being invoked to dilute the seriousness of the offences alleged against the applicants, but only for the limited purpose of determining whether the material collected during investigation, when tentatively assessed, is sufficient to bring the case within the prohibitory clause of Section 497(1), Cr.P.C., or whether the deficiencies and circumstances emerging from the record make the matter one of further inquiry under Section 497(2), Cr.P.C.

10. As regards the applicability of the provisions of the Anti-Terrorism Act, 1997, we find that the question requires somewhat closer examination. The mere use, possession or recovery of an explosive substance, although undoubtedly a serious matter, does not ipso facto establish that the act constitutes an act of terrorism within the meaning of the Anti-Terrorism Act. In **Ghulam Hussain v. The State (PLD 2020 SC 61)**, the Hon'ble Supreme Court examined the essential ingredients of terrorism and held, in substance, that the act must be examined in the

light of the requisite intent, purpose or design contemplated by the law; an act does not become an act of terrorism merely because its consequences are grave or gruesome, unless the necessary element of terror or the statutory purpose is established. Applying the aforesaid principle to the present case, we are of the tentative view that the material presently available does not sufficiently demonstrate the requisite nexus between the alleged recovery and any specific design or purpose falling within the ambit of terrorism. There is, at this stage, no independent material showing that the applicants intended to create terror, fear or insecurity in the public or a section thereof, nor has any overt act towards execution of the alleged terrorist design been attributed to them beyond the alleged possession of hand grenades and the purported disclosure before the police. This observation, however, shall remain strictly confined to the determination of the present bail applications. We consciously refrain from recording any final finding regarding the applicability or otherwise of the Anti-Terrorism Act, 1997, as the question of jurisdiction and the ultimate applicability of the relevant provisions are matters which may appropriately be examined by the learned Trial Court on the basis of the evidence recorded before it and the law applicable thereto.

11. It is also a settled principle that the gravity of an offence, by itself, cannot be made the sole basis for refusing bail where the material available on record otherwise gives rise to reasonable grounds for further inquiry. At the same time, the concession of bail in the present case should not be construed as an endorsement of the defence version or as a determination that the alleged recovery is false. The Court is only required to assess whether, on the material presently available, the applicants' guilt is sufficiently established for purposes of Section 497(1), Cr.P.C., or whether the circumstances warrant the application of Section 497(2), Cr.P.C. Upon cumulative assessment of the material available on record, including the alleged recovery of one hand grenade from each applicant, the absence of independent witnesses despite the alleged prior spy information, the failure of the investigation to collect independent material connecting the applicants with any militant organization or with the alleged commander, the absence of independent corroboration regarding the alleged terrorist design, and the circumstances surrounding the applicants' alleged detention and subsequent implication, we are of the considered tentative view that the case of the

applicants requires further inquiry within the meaning of Section 497(2), Cr.P.C. The applicants have, therefore, succeeded in making out a case for the grant of post-arrest bail.

12. Consequently, the instant Criminal Bail Applications are **allowed**. The applicants/accused are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of **Rs.100,000/- (Rupees One Hundred Thousand only) each**, with P.R. bonds in the like amount, to the satisfaction of the learned Trial Court.

13. Before parting with the matter, it is clarified that the observations recorded herein are purely tentative in nature and have been made solely for the purpose of deciding the question of bail. Nothing contained in this order shall prejudice either side at the trial. The learned Trial Court shall independently assess the evidence, determine the applicability of the relevant penal provisions, including the provisions of the Anti-Terrorism Act, 1997, and decide the case strictly in accordance with law, uninfluenced by any observation made herein.

14. These are the reasons for our short order dated **13.08.2026**, whereby the applicants/accused were admitted to post-arrest bail.

JUDGE

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