IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1879 of 2026

Applicant	:	Shahzaib @ Chingi son of Qasim Khan Through Mr. Hyder Farooq Jatoi, advocate
Complainant	:	Mushtaq Dashti son of Ibrahim Badshah Through: Nemo
The State	:	Through Ms. Seema Zaidi, Addl. Prosecutor General Sindh
Date of hearing	:	27.10.2026.
Date of Order	:	27.10.2026.

O R D E R

Jan Ali Junejo, J:-- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant namely Shahzaib @ Chingi son of Qasim Khan, who seeks his release on bail in connection with FIR No.279 of 2022 registered at Police Station Kalkot, Karachi for the offences punishable under Sections 302/324/109/34 PPC. The applicant has approached this Court being aggrieved by the order dated 11.11.2025 passed by the learned Additional Sessions Judge-IX, Karachi South whereby his bail application was declined.

2. Briefly stated the prosecution case as reflected in the FIR is that the complainant Mushtaq Dashti son of Ibrahim Badshah, resident of House No. 83, Jumman Shah Plot, Raxer Lane, Lyari, Karachi, and engaged in the property business in partnership with his friend Najeeb Lashari son of Usman Lashari stated that for the last three years, they had been regularly sitting at Mubarak Hotel, Chakiwara alongwith their friends. On 22.08.2022, while they were sitting at the said hotel as usual, they felt that some persons were watching them and, therefore, left the hotel. The complainant went to the washroom, whereas Najeeb Lashari alongwith his two friends proceeded on motorcycle No. KPF-4141, Suzuki-150, and

was followed by four boys. At about 12:50 p.m., Najeeb Lashari sustained two bullet injuries on the right side of his abdomen and near his urinary bladder at Photo Lane, near Brohi Hall, and was taken to the Trauma Centre, Civil Hospital, Karachi, where he underwent surgery and remained unconscious. The complainant further stated that, upon receiving information, he learnt that four unknown persons had been watching them while riding two motorcycles and that Najeeb Lashari had followed them on his motorcycle. The four unknown accused allegedly abandoned a black Super Power motorcycle at the scene, bearing engine No. SP-1412536 and chassis No. SP-146397, and fled. After attending to the injured and consulting others, the complainant approached the police to lodged the report against the four unknown accused, hence, instant FIR.

3. Learned counsel for the applicant/accused contended that the applicant has been falsely implicated in the present case by the police with mala fide intention, as his name was not disclosed by any of the arrested co-accused and such disclosure, even if made, is inadmissible under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984. He further argued that there is no eyewitness to the alleged firing incident and that the FIR was lodged by a private person after an unexplained delay of more than four days, despite the place of occurrence being situated only about 1½ kilometres from the police station, which creates serious doubt regarding the prosecution case. He submitted that co-accused Jahangir and Muhammad Saleem alias Saleem Nykka have already been granted bail and that the applicant is entitled to the same concession on the principle of consistency. He further contended that the applicant was initially arrested in FIR Nos. 290/2022 and 291/2022, registered at P.S. Kalakot, and was subsequently arrested in the present case on 13.09.2022; however, he has since been acquitted in the said cases, notwithstanding the prosecution's claim that the forensic report allegedly matched the evidence in FIR No. 291/2022. He further submitted that the complainant neither identified the applicant during the trial nor was an identification parade conducted, and no statement under Section 164 Cr.P.C. was recorded. He emphasized that the applicant has remained behind bars for approximately four years without any lawful justification and is entitled to bail on the ground of statutory delay in terms of the principles laid

down in 2024 SCMR 28. Learned counsel further argued that no reasonable grounds exist to believe that the applicant committed the alleged offence, whereas sufficient grounds exist for further inquiry into his guilt within the meaning of Section 497(2) Cr.P.C. He maintained that no specific role has been attributed to the applicant and that the allegations against him are based on presumptions and assumptions. Lastly, he submitted that the applicant's liberty is protected under Articles 4 and 9 of the Constitution of the Islamic Republic of Pakistan, 1973, and that any benefit of doubt arising at the bail stage should be extended to him in accordance with the settled principles laid down by the superior courts, including Arbab Ali (1985 SCMR 195) and Ibrahim v. Hayat Gull (1985 SCMR 382).

4. Conversely, learned APG opposes the grant of bail to the applicant, asserting that sufficient material has been collected during investigation connecting the accused with the offence, and thus, the case does not fall within the ambit of further inquiry.

5. I have heard the learned counsel for the applicant as well as the learned Addl. Prosecutor General and have perused the material available on record with their able assistance.

6. It is an admitted position that the FIR was lodged against four unknown persons and that the applicant was not nominated therein. The complainant admittedly did not witness the actual occurrence of firing, and the identity of the assailants was not disclosed at the time of lodging the FIR. The applicant's implication, therefore, requires independent corroboration through legally admissible evidence. The alleged disclosure of the applicant's name by a co-accused, if any, is not substantive evidence against him in view of Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984. The delay of more than four days in lodging the FIR, despite the place of occurrence being situated approximately 1½ kilometres from the police station, also requires explanation and may be considered along with the other circumstances of the case.

7. It is further noteworthy that the applicant's learned counsel has asserted that the applicant has been acquitted in FIR Nos. 290/2022 and 291/2022, in which the prosecution allegedly relied upon a forensic report said to have connected him with the crime. The legal and evidentiary effect of the said acquittals, as well as the extent to which the available forensic material connects the applicant with the present occurrence, are matters requiring further examination at trial. At this stage, the prosecution material, as presented, does not appear to provide sufficient grounds for forming a tentative opinion that the applicant's involvement in the alleged offence is established to the degree contemplated under Section 497(1) Cr.P.C. Rather, the circumstances discussed above bring the case within the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C.

8. Since co-accused, namely Jahangir and Muhammad Saleem alias Saleem Nykka, have already been granted bail by the learned trial court, therefore, applicant also deserves same concession on the rule of consistency. Reliance can be placed on case titled as Pir Bakhsh v. The State and others [2010 MLD 220], wherein it is held,

> "*6. Rule of consistency is always taken into consideration by the Courts since long because a person cannot be denied for the grant of bail whose case is at par of an accused who had already been released on bail. The Courts have to give equal treatment to the accused persons having one and the same role in the same case. Reliance upon the cases of Muhammad Fazal alias Bodi v. The State (1979 SCMR 9), Khadim Hussain v. The State (1983 SCMR 124), Manzoor Ahmad and others v. The State (PLJ 1999 Cr.C. (Lahore) 570) and Muhammad Daud and another v. The State and another (2008 SCMR 173). As the case of the petitioner is at par with that of his co-accused Zulifqar and Ghulam Rasool who had already been allowed bail by the learned Additional Sessions Judge, therefore, following the rule of consistency, the petitioner is also entitled to the bail.*"

9. As regards the plea of statutory delay, the applicant's counsel has submitted that he has remained incarcerated for approximately four years. The applicability of the statutory provisions relating to delay in conclusion of the trial would depend upon the period of detention, the nature of the offence, the applicable statutory conditions and any exclusionary circumstances attributable to the accused. Nevertheless, the prolonged incarceration, when considered alongside the circumstances giving rise to further inquiry, reinforces the need for a careful assessment of the

applicant's continued detention. Needless to observe that the observations made herein are tentative in nature and shall not prejudice either party at the trial.

10. In view of the foregoing discussion, I am of the considered tentative opinion that the applicant has succeeded in making out a case for the grant of post-arrest bail under Section 497(2) Cr.P.C. Accordingly, the instant bail application is allowed, and the applicant Shahzaib alias Chingi son of Qasim Khan is admitted to bail subject to furnishing solvent surety in the sum of Rs. 200,000/- (Rupees Two Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

11. Needless to clarify that the observations made herein are tentative in nature and shall not influence the learned trial Court while deciding the case on its merits.

JUDGE