IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2857 of 2026
a/w
Criminal Bail Application No. 2858 **of 2026**

Applicant [in both Cr.B.As]	:	Hamza son of Muhammad Juman Through Mr. Asadullah Burdi, advocate
Complainant	:	Sanot Chutto son of Fotto Ghutto, Through: Mr. Sanaullah Rind, advocate
The State	:	The State: Through Ms. Seema Zaidi Addl. P. G. Sindh a/w SI-Rana Kashif of PS Gadap City.
Date of hearing	:	29.10.2026.
Date of Order	:	29.10.2026.

O R D E R

Jan Ali Junejo, J:-- By this common order, I intend to dispose of both the bail applications filed by the applicant, who is seeking post-arrest bail in Crime Nos.133/2026 U/s 324/34 PPC and 356/2026 U/s 23(i)A of SAA, 2013 of PS Gadap City, after his bail pleas have been declined by learned Additional Sessions Judge-VII, Malir Karachi [in Cr. B. A No.4272/2026] and learned Additional Sessions Judge-VI, Malir Karachi [in Cr. B. A No.4107/2026] vide order dated 01.08.2026 & 05.08.2026, respective. Being aggrieved, the Applicant has approached this Court.

2. Briefly stated, the prosecution case as disclosed in the FIR No. 133/2026 is that complainant Sanot Chutto lodged the instant FIR on 27.02.2026 alleging therein that due to an ongoing land dispute between the parties, threats had previously been extended to them. On 26.02.2026 at about 05:40 p.m., when the complainant along with his relative Gul Sher was returning from land towards his house near Sultan Shah Sherazi Dargah, Deh Wankand, Gadap Town, four persons riding on two motorcycles intercepted them. Out of them, the complainant identified co-accused Hamza and Ibrahim, who allegedly abused and threatened them to withdraw from the land dispute. Thereafter, hot words were exchanged and both accused persons allegedly assaulted the complainant with fists

and punches, while co-accused Hamza allegedly took out a pistol and fired a shot which hit the complainant on his hand, causing injury, whereafter the accused persons fled away from the spot. Consequently, the present FIR came to be registered under Sections 324/34 PPC.

3. Precisely relevant facts of the prosecution case, as unfolded in FIR No.356 of 2026, are that the complainant SIP Nazir Ahmed alongwith police officials, while on routine patrol duty pursuant to Roznamcha Entry No.08, reached Pathan Goth, where the complainant of FIR No.133/2026, registered under Sections 324/34 PPC, namely Sawan and Gulsher, informed him about the presence of nominated accused Hamza son of Muhammad Juman. Acting upon such information, the police party proceeded to Link Road, downhill near Suleman Goth, Deh Dhan Kundha, Gadap, District Malir, Karachi, where, at about 1610 hours, the complainant pointed out a person who, upon seeing the police, attempted to flee but fell down a slope after colliding with a tree and was apprehended. On inquiry, he disclosed his identity as Hamza son of Muhammad Juman. During his personal search, conducted in the presence of private mashirs Sawan and Gulsher, one .30-bore pistol bearing serial No. A8106, along with a magazine containing three live rounds, was allegedly recovered from his possession, besides one keypad mobile phone and Rs.5,000/- in cash. The accused failed to produce any valid licence or lawful authority for possessing the recovered firearm and ammunition; consequently, he was arrested for the offence punishable under Section 23 of the Sindh Arms Act, 2013. He was also arrested in FIR No.133/2026 under Sections 324/34 PPC, being a nominated accused therein. The recovered firearm and ammunition were sealed and taken into police custody as case property, and upon return to the police station, the present FIR was registered against him and investigation was entrusted to the concerned SIO.

4. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case due to mala fide intentions, as the alleged pistol was foisted upon him by the complainant at the instigation of certain private persons, who had

allegedly apprehended and assaulted him on 04.06.2026. He submits that the applicant's brother filed an application under Sections 22-A and 22-B, Cr.P.C., pursuant to which the learned 3rd Additional District and Sessions Judge, Malir, directed the SSP, District Malir, to conduct a fair inquiry into the allegations against the complainant and his associates. He further argues that the alleged recovery is doubtful, as no independent witness from the populated locality was associated, in violation of Section 103, Cr.P.C., nor were fingerprints obtained from the pistol to establish its connection with the applicant. He also points out that co-accused Ibrahim has already been granted bail by this Court in the same FIR vide Criminal Bail Application No.901/2026; hence, the applicant is entitled to the same concession on the principle of consistency. He maintains that no credible material connects the applicant with the alleged offence and that the case calls for further inquiry under Section 497(2), Cr.P.C. He lastly submits that the investigation has been completed and the challan submitted before the learned Trial Court, while the applicant is a permanent resident of Karachi, has no criminal antecedents and is neither likely to abscond nor tamper with the prosecution evidence; therefore, he prays for grant of bail.

5. Conversely, the learned APG, assisted by learned counsel for the complainant, opposes the bail application. She submits that the applicant is involved in a heinous offence and from his possession unlicensed pistol has been recovered; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the concession of bail.

6. I have heard the learned counsel for the applicant, learned Additional Prosecutor General and learned counsel for the complainant, and have examined the available record with their assistance.

7. Since both the bail applications arise out of separate FIRs involving the same applicant and connected circumstances, they are being decided through this common order.

8. So far as FIR No.133/2026, registered under Sections 324/34, PPC, is concerned, the tentative assessment of the record reflects that the

applicant has been specifically nominated in the FIR, wherein a specific role of participating in the assault upon the complainant, along with co-accused, has been attributed to him. The occurrence is stated to have arisen out of an ongoing land dispute between the parties, and the complainant has alleged that the accused persons intercepted and threatened them to withdraw from the dispute, whereafter the complainant was assaulted and a firearm was used by accused, resulting in an injury to him. At this stage, the specific nomination of the applicant and the allegations regarding his active participation cannot be brushed aside merely on the basis of his plea of false implication. The question of the applicant's actual role, the veracity of the allegations and the extent of his participation are matters to be determined after recording of evidence at trial.

9. With regard to FIR No.356/2026, registered under Section 23(i)(a) of the Sindh Arms Act, 2013, the prosecution case is that a .30-bore pistol along with a magazine containing three live rounds was recovered from the possession of the applicant during his personal search. The recovered weapon and ammunition were taken into police custody and sealed at the spot in the presence of mashirs. The applicant's contention that the weapon was foisted upon him is a defence plea which requires examination in the light of the evidence to be produced by the parties. Similarly, the non-obtaining of fingerprints from the pistol or non-association of independent witnesses, by itself, does not render the alleged recovery doubtful at this tentative stage, particularly when the recovery is stated to have been effected in the presence of mashirs. The evidentiary value of the recovery memo and the testimony of the witnesses shall be assessed by the learned Trial Court during trial.

10. The contention regarding the order passed by the learned 3rd Additional District and Sessions Judge, Malir, directing the SSP, District Malir, to conduct an inquiry into the allegations raised by the applicant's brother, has also been considered. However, such direction for an inquiry, by itself, does not establish that the present FIRs are false or that the alleged recovery has been foisted upon the applicant. Likewise, the plea of mala fide and previous dispute between the parties requires consideration

on the basis of evidence and cannot, in the circumstances of the present case, override the material presently available against the applicant.

11. As regards the grant of bail to co-accused Ibrahim in FIR No.133/2026, the principle of consistency is applicable where the role attributed to the accused persons and the incriminating material against them are substantially similar. However, the said principle cannot be applied mechanically without examining the individual role and circumstances of each accused. The mere fact that a co-accused has been granted bail does not automatically entitle the present applicant to the same concession, particularly when the applicant is also facing a separate case under the Sindh Arms Act, 2013, involving the alleged recovery of an unlicensed firearm from his possession.

12. The rule of consistency was explained by Hon'ble Apex Court in the case of Muhammad Atif v. The State (2024 SCMR 1071) in the following words:

> "***7. The rule of consistency in bail matters is attracted and applied after the grant of bail to a co-accused. Grant of bail by a court considers several factors like the contents of the FIR, the incriminating material collected by the police during investigation, the past history of the accused, etc. The grounds which form the basis for the grant of bail to a co-accused is thus the benchmark for grant of bail to the accused under the rule of consistency. Therefore, the court has to assess whether the role of the accused in the FIR, examined in the background of the material collected by the Police is the same as that of the co-accused, who has been granted bail. It is this congruence in the case of the co-accused and the accused that attracts the rule of consistency***."

In light of the foregoing principles, and having found that the applicant's role and the supporting material against him is not identical to those of co-accused, the rule of consistency is not attracted in the present case. Accordingly, this contention of the learned counsel for the applicant fails.

13. The fact that the investigation has been completed and the challan submitted before the learned Trial Court and absence of previous criminal record, have also been taken into consideration. Nevertheless, these circumstances, by themselves, are not sufficient to grant bail where the

available material, on tentative assessment, provides reasonable grounds to connect the applicant with the alleged offences. The contentions raised by learned counsel for the applicant do not, at this stage, bring the cases within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.

14. In view of the foregoing discussion, I am of the tentative opinion that the applicant has failed to make out a case for grant of post-arrest bail in either of the two cases. Consequently, both Criminal Bail Applications arising out of FIR No.133/2026 and FIR No.356/2026 are dismissed. Needless to observe that the observations made herein are tentative in nature and shall not prejudice either party at the trial.

JUDGE