

LHC: Driving a Bus Without a PSV Licence Can Attract Section 322 PPC

In 2026 LHC 5349, the Lahore High Court treated driving a bus without the required PSV entitlement as an unlawful act and refused post-arrest bail under section 322 PPC.

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Case: Riaz Hussain v. The State and another
Proceeding: Criminal Miscellaneous No. 5377-B of 2026
Citation: 2026 LHC 5349 | Approved for reporting
Court: Lahore High Court, Multan Bench | Judicial Department
Judge: Justice Tanveer Ahmad Sheikh
Decision: Post-arrest bail refused on 20 August 2026

What the Lahore High Court decided

The Lahore High Court has held, at the post-arrest bail stage, that driving a passenger bus without the required public service vehicle entitlement may amount to an unlawful act for the purposes of qatl-bis-sabab under sections 321 and 322 of the Pakistan Penal Code, 1860.

In Riaz Hussain v. The State and another, reported as 2026 LHC 5349, the accused possessed an HTV driving licence but did not possess the PSV licence or endorsement required to drive a bus. Justice Tanveer Ahmad Sheikh treated that licensing deficiency as the feature that made the alleged act of driving unlawful. The Court refused post-arrest bail on 20 August 2026.

The decision is important because it explains the Court's prima facie distinction between qatl-i-khata by rash or negligent driving under section 320 PPC and qatl-bis-sabab under section 322 PPC. It does not convict the accused. The order expressly states that its observations are tentative and must not influence the trial court.

The fatal crash and prosecution allegation

The case arose from FIR No. 1101 of 2025, registered on 15 November 2025 at Police Station Saddar Shujaabad, District Multan, under section 322 PPC.

According to the prosecution account recorded in the bail order, Muhammad Abu Bakar, Ali Hamza, Yasir and Muhammad Amjad were travelling on a motorcycle near Adda Nasir Mor at about 7:00 pm. A bus bearing registration No. 6478-DGI allegedly came from the wrong side while being driven rashly and negligently and collided with the motorcycle. All four young men died at the scene. Yasir's marriage was scheduled for the following day.

Riaz Hussain was not named in the original FIR. The owners of the bus, Shakeel and Liaqat, joined the investigation on 20 November 2025 and stated under section 161 Cr.P.C. that Riaz

Hussain was their driver and that the bus had been entrusted to him. The complainant then nominated him through a supplementary statement recorded on 23 December 2025.

His bail applications were refused first by the Magistrate Section 30 at Shujaabad and then by the Additional Sessions Judge, Shujaabad, on 24 June 2026. He approached the Lahore High Court, Multan Bench, through Criminal Miscellaneous No. 5377-B of 2026.

The defence and prosecution positions

The defence relied on four main points. It argued that the petitioner's later nomination created doubt; the facts disclosed section 320 PPC rather than section 322; section 320 was said to be bailable; and section 322 carried only diyat, so the petitioner claimed bail as a right.

The prosecution and complainant opposed release. Their central answer was that an HTV licence did not authorise the petitioner to drive a public passenger bus. Without the required PSV entitlement, the act of driving the bus was itself illegal and therefore fell within the concept of an unlawful act under section 321 PPC.

Why the later nomination did not create further inquiry

The High Court did not treat the absence of the petitioner's name from the FIR as sufficient to bring the case within further inquiry under section 497(2) Cr.P.C.

The Court traced the nomination through the investigation. The bus owners identified the petitioner as their driver and said that the vehicle had been handed to him. The complainant's supplementary statement followed those section 161 statements. In the Court's view, the petitioner's name emerged through the natural course of investigative steps rather than through an unexplained or manufactured improvement.

The petitioner also did not identify any personal malice or grudge on the part of the complainant or the bus owners that could explain a false nomination. On that tentative assessment, the delay in naming him did not justify bail.

This part of the order does not establish the truth of the owners' statements. Their credibility, the identification of the actual driver, and the prosecution's proof of entrustment remain matters for trial.

Sections 320 and 322 PPC: the Court's dividing line

The Court examined sections 318 to 322 PPC together.

Section 318 defines qatl-i-khata as causing death without an intention to cause death or harm, through a mistake of act or fact. Section 320 specifically provides punishment where qatl-i-khata is committed by rash or negligent driving: diyat together with imprisonment that may extend to ten years.

Section 321 defines qatl-bis-sabab as causing death, without an intention to cause death or harm, by doing an unlawful act. Section 322 provides diyat as its punishment.

The Court held that intention or knowledge is not essential to either category. For this bail decision, the decisive feature was whether the underlying act of driving was lawful or unlawful:

- where a person holds a valid and effective licence for the vehicle, a death caused by rash or negligent driving falls within qatl-i-khata and section 320 PPC; and
- where a person has no licence, or lacks a valid and effective licence authorising that particular driving, the act is unlawful and may fall within qatl-bis-sabab under sections 321 and 322 PPC.

This was the central legal proposition applied against the petitioner.

Why an HTV licence was not enough

The petitioner held an HTV licence, but the record before the High Court showed that he did not possess the PSV entitlement required for driving a public passenger bus.

The Provincial Motor Vehicles Ordinance, 1965 distinguishes a general class of driving licence from specific authority to drive a public service vehicle. Its licensing scheme requires the licence to show whether the holder is entitled to drive a public service vehicle. The High Court therefore treated the petitioner's HTV licence as insufficient for the bus involved in the case.

The order reasoned that unauthorised operation of a passenger bus puts the driver, passengers and other road users at risk. Because the petitioner was allegedly driving a vehicle for which he lacked the necessary public service authorisation, the Court regarded the act as illegal and as *prima facie* capable of attracting section 322 PPC.

The precise licensing record remains important. In another case, the result may depend on the class of vehicle, the terms and validity of the licence, any endorsement, the date of expiry, and proof from the licensing authority. A general allegation that a driver was unlicensed should not replace production of the actual official record.

Section 322 PPC and the claim to bail as a right

The defence argued that section 322 PPC carries *diyat* only and therefore does not justify continued custody. The High Court rejected the proposition that this fact automatically creates an absolute right to bail.

The Court noted that section 322 is classified in the Second Schedule to the Code of Criminal Procedure as cognizable and non-bailable. It treated bail as a judicial discretion requiring examination of the individual allegations and available evidence. Four deaths, the allegation that the bus came from the wrong side, the absence of PSV authorisation, and the investigative material identifying the petitioner weighed against release.

The Court found no material making guilt a matter of further inquiry and described the alleged driving as extremely rash and negligent. It therefore declined to exercise discretion in the petitioner's favour.

Non-bailable does not mean that bail must be refused in every section 322 case. Section 497 still requires a tentative judicial assessment, and section 497(2) requires release where the accused's guilt calls for further inquiry. The order turns on its stated combination of licensing status, manner of driving, number of deaths, identification material and absence of an alleged motive for false implication.

Reliance on 2011 SCMR 1227

The High Court relied on the Supreme Court authority reported as 2011 SCMR 1227, identified in the supplied order as *Majid Nadeem v. The State and another*. That case also concerned refusal of post-arrest bail after rash and negligent driving caused multiple deaths.

The precedent was used for the proposition that section 322 is non-bailable and that bail is discretionary rather than claimable merely because the punishment is diyat. It also supports consideration of the manner of driving, the scale of the alleged harm and the evidence collected during investigation.

The comparison should remain fact-sensitive. The reported Supreme Court case involved its own serious allegations and evidentiary setting. The present order did not create a rule that the number of deaths alone decides bail.

What the order actually establishes

The order supports the following propositions at the bail stage:

- authority to drive the particular class and use of vehicle matters, not merely possession of some form of driving licence;
- an HTV licence without the required PSV entitlement may leave the operation of a passenger bus unauthorised;
- unauthorised driving may supply the unlawful act relied upon for a prima facie section 321 and section 322 PPC case;
- delayed nomination is not automatically fatal where the record explains how the suspect was identified during investigation;
- the diyat-only punishment under section 322 does not by itself make bail an absolute right; and
- the bail court must consider the actual allegations, available evidence and surrounding circumstances.

Important limits of the ruling

This is a post-arrest bail order, not a final judgment after evidence. The Court expressly protected the trial court from being influenced by its tentative observations. The prosecution must still prove that the petitioner was driving, that his licence did not authorise PSV operation, that the driving was rash or negligent, and that the alleged act caused the deaths.

The order also does not separately resolve every interpretive issue created by the overlap between sections 320 and 322 PPC. Section 320 specifically addresses death caused by rash or negligent driving, while section 321 focuses on death caused by an unlawful act. At trial, the parties may still address whether the licensing defect, the manner of driving, and the required causal connection justify one classification rather than the other.

Nor does the decision hold that every licence defect automatically defeats bail. An expired licence, a missing endorsement, a wrong vehicle class and a complete absence of any licence

may raise different factual and legal questions. The official licensing record and the circumstances of the collision remain central.

Practical significance for road-traffic and bail cases

For defence counsel, the first step is to obtain the complete licensing record rather than rely on a photocopy or a broad description such as HTV licence. The record should establish the authorised vehicle class, PSV entitlement, validity dates, endorsements, renewals and any verification by the issuing authority.

The bail application should separately address identity of the driver, entrustment of the vehicle, eyewitness or digital evidence, site plan, mechanical inspection, wrong-side allegation, speed or negligence evidence, causal connection, delay in nomination, malice, and the specific requirements of sections 320 and 322 PPC.

For the prosecution, proof that an accused lacked PSV authority should be supported by the licensing authority and connected to the particular vehicle and date. The prosecution must still prove the alleged driving and causation; licence status alone does not identify the driver or prove how the collision occurred.

For transport operators, the ruling underlines that allowing a person to drive a passenger bus merely because that person holds an HTV licence may create serious criminal exposure if the required PSV entitlement is absent.

Final outcome

The Lahore High Court dismissed Criminal Miscellaneous No. 5377-B of 2026 and refused post-arrest bail to Riaz Hussain. The Court found that his prima facie involvement could not be ruled out and that the available material did not call for further inquiry.

All observations in the order are tentative. The trial court must decide the charge independently on the evidence.

Judgment source and verification note

This analysis is based on the complete seven-page Lahore High Court order in Riaz Hussain v. The State and another, decided on 20 August 2026 and approved for reporting. The Lahore High Court approved-judgments index and Research Centre bulletin identify it as 2026 LHC 5349.

This is independent legal analysis for general information and research. The official judgment, current statutory text, licensing record and subsequent judicial treatment should be checked before reliance in litigation.