

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

Crl. Bail Application No.S-867 of 2025

Applicant: Muhammad Zeeshan son of Muhammad Suleman
through Mr. Ishrat Ali Lohar, Advocate.

Complainant: Ibrahim son of Sheral Khan Lund through
Mr. Muzammil Khan, Advocate.

For the State: Ms. Sana Memon, Assistant P.G.

Date of hearing: 26-08-2025

Date of Order: 26-08-2025

ORDER

Jan Ali Junejo, J. – Through this application under Section 497 Cr.P.C., the applicant/accused Muhammad Zeeshan seeks post-arrest bail in Crime No. 102 of 2025, registered at P.S. Cantonment, Hyderabad, for offences under Sections 324, 147, 149, and 427 PPC. Earlier, the applicant's post-arrest bail plea was declined by the learned 7th Additional Sessions Judge, Hyderabad, vide order dated 02.08.2025 passed in Criminal Bail Application No. 2233 of 2025; hence the present application has been filed before this Court.

2. Briefly, the allegations as set forth in the FIR are that on 25.07.2025 at about 0005 hours, the applicant along with co-accused allegedly entered the complainant's shop, threw articles outside, broke the counter, and during the melee, the applicant purportedly struck Abdul Aziz on the head with the butt of a pistol and bit Ghulam Shabbir's hand; abrasions to Shabbir are noted. It is further alleged that 22 mobile phones were stolen and 16 iPhones were damaged.

3. Learned counsel for the applicant contends that the applicant has been falsely implicated due to a prior business/property dispute; that the medical evidence does not support the charge under Section 324 PPC as no firearm

discharge or life-endangering injury is reported; that the final medical certificate reflects swelling without bony lesion, attracting at best Section 337-A(i) PPC (bailable); that there is no recovery of any weapon or allegedly stolen property from the applicant; that the witnesses are interested, being affiliated with the complainant's business union; and that the case calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Lastly, the learned counsel has prayed for grant of bail.

4. Conversely, learned counsel for the complainant, supported by the learned Assistant Prosecutor General, opposes the grant of bail, arguing that the applicant is specifically nominated with a clear role of causing injuries; that the allegations, taken at their face value, prima facie attract Section 324 PPC; and that granting bail at this stage would embolden the accused and prejudice the prosecution. Lastly, the learned counsel for the Complainant and the learned A.P.G. prayed for dismissal of bail.

5. I have heard learned counsel for the parties and perused the available record, including the FIR, the interim and final medical certificates, and the order dated 02.08.2025 passed by the learned 7th Additional Sessions Judge, Hyderabad in connected bail matters. The role assigned to the applicant is of causing a head injury to Abdul Aziz with the butt of a pistol and being armed at the time of occurrence. The medical certificate regarding Abdul Aziz reflects swelling on the head without any bony lesion; the injury has tentatively been opined to fall under Section 337-A(i) PPC (*Shajjah-i-Khafifah*), which is a bailable offence and the said injury does not appear to be fatal. No firearm discharge is alleged or proved, and no firearm injury is reported. Although the injured was allegedly at the mercy of 8/9 individuals, one of whom was armed with a pistol, it is noteworthy that the Applicant neither fired nor inflicted any blow upon a vital part of the body, and the injuries

sustained were of a minor nature despite ample opportunity to cause serious harm. This circumstance prima facie casts doubt on the prosecution's assertion of an intent to commit murder, which is an essential ingredient of the offence under Section 324, P.P.C. Accordingly, the matter calls for further inquiry to determine whether the nature and placement of the injuries were sufficient to cause death in the ordinary course of nature or merely indicative of an intention to inflict harm of a lesser degree. Reliance is placed on the principle laid down by the Honourable Supreme Court in case of *Ali Raza v. The State and others (2022 SCMR 1245)*, wherein it was observed that: *"It is also an admitted position that the petitioner fired only single shot at the non-vital part i.e. wrist of the injured PW and had not repeated the same despite having ample opportunity to do so, which shows that perhaps the petitioner had no intention to kill the injured PW"*. Reference may also be made to the principle enunciated by the Honourable Supreme Court of Pakistan in the case of *Jamaluddin and another v. The State (2023 SCMR 1243)* wherein it was held that: *"The complainant and the injured PW received injuries on the non-vital parts of the body and the petitioners did not repeat the fire despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable in the case or not would be determined by the learned Trial Court after recording of evidence. As far as the question which requires the attention of this Court is that petitioner Jamaluddin has been granted ad interim pre-arrest bail by this Court whereas the other petitioner Rabail has filed petition claiming post-arrest bail. As far as the principle enunciated by this Court regarding the consideration for grant of pre-arrest bail and post-arrest bail are entirely on different footings is concerned, we have noticed that in this case both the petitioners are ascribed the same role. For the sake of arguments if it is assumed that the petitioner enjoying ad interim pre-arrest bail is declined the relief on the ground that the considerations for pre-arrest bail are different and the other is granted post-arrest bail on merits, then the same would be only limited upto the arrest of the petitioner Jamaluddin*

because of the reason that soon after his arrest he would be entitled for the concession of post-arrest bail on the plea of consistency”.

6. As regards the allegation of theft/snatching of 22 mobile phones and damage to 16 iPhones, the FIR does not furnish particulars such as make/model, IMEI numbers, or distinctive identifiers. No recovery of any alleged stolen property has been effected from the applicant. At this stage, those allegations remain uncorroborated. The offence under Section 427 PPC (mischief causing damage) is *per se* bailable and does not fall within the prohibitory clause of Section 497 Cr.P.C. Sections 147 and 149 PPC, on the current record, are attracted on the basis of presence and alleged common object; however, in the absence of recovery and considering the medical classification of injuries, the matter calls for further inquiry. The record also reflects an underlying civil/business dispute between the parties. While this Court refrains from deeper appreciation, the existence of such dispute, coupled with the nature of medical evidence and lack of recoveries, further dilutes the prosecution case for the limited purpose of bail. The applicant has remained in custody since his arrest; no further custodial interrogation is shown to be required; and his continued detention, in the circumstances, would serve no useful purpose and may amount to pre-trial punishment. It is well-settled that at the bail stage, deeper appreciation of evidence is not permissible and only a tentative assessment is to be undertaken. Where two views are possible, the one favourable to the accused is to be preferred for the purpose of bail. Bail is not to be withheld as punishment; conversely, continued incarceration cannot be justified when the matter manifestly falls within further inquiry under Section 497(2) Cr.P.C.

7. In view of the foregoing discussion, particularly the medical opinion indicating an injury under Section 337-A(i) PPC (bailable), absence of any

firearm discharge or firearm injury, lack of recovery of weapon or alleged stolen property, and the doubtful applicability of Section 324 PPC, the case against the applicant squarely falls within the ambit of “further inquiry” contemplated by Section 497(2) Cr.P.C.

8. Consequently, this bail application was allowed and the applicant/accused, Muhammad Zeeshan son of Muhammad Suleman, was admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court and these are the reasons of my short order dated 26.08.2025.

9. The observations made hereinabove are tentative in nature, confined to the present bail application, and shall not prejudice the rights of either party nor the merits of the case.

JUDGE

Ahmed/Pa,