

## IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2974 of 2024

Applicant : Iqrar Hussain son of Afzal Hussain;  
Through Mr. Muhammad Bilal Rashid,  
Advocate

Respondent : The State  
through Mr. Qamaruddin Nohri, DPG Sindh  
duly assisted by Mr. Parkash Kumar, advocate

Date of hearing : 16.04.2025

Date of order : 22.04.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Iqrar Hussain seeks pre-arrest bail in a case bearing Crime No. 443/2024, offence under section 324/506-B/34 PPC of P.S Mominabad Karachi. The bail plea of the applicant was declined by the Court of learned Additional Sessions Judge X Karachi West, vide order dated 11.12.2024.

2. According to the prosecution theory, complainant Mst. Rimsha was married to applicant Iqrar Hussain in the year 2023. She stated that following the marriage, the applicant's behavior changed and he subjected her to physical abuse. On 24.06.2023, accused allegedly assaulted her severely and demanded the gold ornaments given by her parents, prompting her to visit the police station with her father and obtain a medico-legal certificate. Subsequently, the applicant purportedly began to harass and intimidate her. She further alleged that suspicious individuals began appearing nearby her residence and on 24.08.2023 at about 2330 hours, two gunshots were fired outside her house. A relative of the complainant reportedly identified the applicant and an unknown accomplice at the scene. On these allegations, an FIR was lodged against the applicant pursuant to a court directive under Section 22-A Cr.P.C.

3. The learned counsel for the applicant contended that the FIR in the present matter suffers from a significant and unexplained delay, which renders the prosecution case doubtful at the very outset. He argued that

such delay reflects an element of deliberation and consultation, and undermines the credibility of the complainant's version. It was further submitted that the alleged incident of firing does not fall within the purview of Section 324 PPC, as there is no direct allegation that any fire was aimed at the complainant or her family members. In fact, the complainant was not even present at the time of the alleged occurrence, and there are no injuries reported, nor any recovery of weapon attributed to the applicant to substantiate the claim of an attempt to commit *qatl-e-amd*. The learned counsel further argued that the complainant is not an eyewitness of the alleged occurrence and that the implication of the applicant is based solely on a statement of a relative who allegedly saw the applicant near the scene. It was asserted that the allegation appears to be rooted in mala fides, as the complainant had herself pronounced divorce from the applicant on 19-08-2024, just a few days prior to the alleged incident. According to the defense, this divorce is the real cause of annoyance and the FIR is a retaliatory move meant to harass, humiliate, and pressurize the applicant. Additionally, it was argued that the allegations of threatening calls are unsubstantiated, as no call data record or evidence has been produced to show that the alleged number belonged to the applicant or that such threats were actually made. The learned counsel maintained that the entire case is concocted, lacks corroborative evidence, and has been lodged with an ulterior motive. He relied upon the case law cited at 2022 P.Cr.L.J 170 [Lahore], 2023 SCMR 1898, 2013 MLD 833.

4. On the other hand, the learned Deputy Prosecutor General duly assisted by learned advocate for complainant opposed the bail and submitted that the FIR contains direct and specific allegations against the applicant regarding the incident of firing outside the complainant's house. It was emphasized that although the complainant may not have personally witnessed the incident, a relative present at the time identified the applicant along with another unknown person, and this forms sufficient material for the investigation to proceed. The DPG contended that the role assigned to the applicant involves use of a firearm at night in a residential locality, which is a serious offence and creates fear in society. It was further submitted that the provisions of Section 324 PPC are attracted even in the absence of injury, where the intention or knowledge to commit murder can be inferred from the surrounding circumstances and the manner in which

the act was committed. The prosecution also argued that at this preliminary stage, a tentative assessment of the material on record is to be made and that the version of the complainant cannot be discarded outright. The learned DPG highlighted the nature and gravity of the offence and expressed apprehension that the applicant may misuse the concession of bail by influencing witnesses or tampering with evidence, especially in view of the previous allegations of harassment and threats. It was lastly submitted that the investigation is still in progress, and technical data, including verification of phone numbers and forensic analysis, is yet to be collected. In such circumstances, the applicant does not deserve the discretionary relief of bail.

5. In view of the submissions advanced by the learned counsel for the applicant as well as the learned Deputy Prosecutor General, and upon perusal of the material available on record, it appears that the instant case arises from a matrimonial dispute, whereby both the parties at dagger drawn over the matrimonial issues, as such complainant alleged that after being subjected to physical abuse and threats, she lodged the FIR following an incident of firing near her residence. However, the FIR was registered with an unexplained delay of about two months. Such delay, particularly in criminal matters involving allegations of a serious nature like an attempt to commit Qatl-e-Amd, casts doubt on the veracity of the prosecution's version and creates a shadow over the spontaneity and truthfulness of the complaint. It is a settled principle of criminal jurisprudence that unexplained delay in lodging the FIR gives rise to the presumption of deliberation and consultation, and weakens the prosecution's case at the very inception.

6. Furthermore, it is not the case of the prosecution that the alleged firing was aimed directly at the complainant or her family members. Rather, it is admitted that the complainant herself did not witness the firing and that the shots were fired outside the house, allegedly in the presence of a relative. No injuries were caused to any person, and no firearm has been recovered from the applicant during the course of investigation and even such marks of bullets has not forensically examined. Mere firing at the gate of complainant without specific targeting or injury does not, at this stage, constitute sufficient ground to sustain the charge under Section 324 PPC.

7. It is also significant that the complainant had divorced the applicant on 19-08-2024, just a few days prior to the alleged incident, which coupled with the unexplained delay, lends support to the defense version that the complainant may have been motivated by personal vendetta to falsely implicate the applicant. The Supreme Court in the case of **Rana Muhammad Arshad v. Muhammad Rafique and another** (PLD 2009 SC 427) has authoritatively held that *grant of bail at the initial stage without deeper appreciation of evidence is permissible when the case calls for further inquiry and the accused's involvement is not free from doubt.* The Court further held that *mere registration of an FIR or mention of a non-bailable offence in the FIR is not sufficient to deny bail if the facts and circumstances create reasonable doubt about the applicant's involvement or the correctness of the charge.*

8. Additionally, the prosecution's assertion that the applicant had issued threats to the complainant has not been corroborated by any tangible material. No call data record has been placed before the investigating officer to establish that the alleged threatening messages or calls were made from a number belonging to the applicant. In the absence of forensic or technological verification, such allegations remain bald assertions, unworthy of reliance at this stage.

9. Given the totality of circumstances, including the unexplained delay in reporting, the absence of direct and cogent evidence linking the applicant to any specific act of violence, lack of recovery of weapon, and the complainant's status as a non-eyewitness, the case against the applicant, at this stage, appears to be one of further inquiry falling within the ambit of Section 497(II) Cr.P.C. The principle laid down in the Rana Muhammad Arshad (Supra) case further fortifies the applicant's claim for bail on the ground that deeper appreciation of evidence is not warranted at the bail stage and that benefit of reasonable doubt ought to be extended in borderline cases. Accordingly, instant bail application is allowed and the interim order dated 23.12.2024 is confirmed under same terms and conditions. Accused to join the investigation/trial.

**J U D G E**