

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

2nd Cr. Bail Appln. No.S- 167 of 2025.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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- 1.For orders on office objection as flag A.
2.For hearing of bail application.

30.4.2025.

Applicant is present on bail.

Mr. Aitbar Ali Bullo, D.P.G.

Mr. Javed Ahmed Soomro, advocate for the complainant.

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AMJAD ALI SAHITO-J:- By this application, applicant is seeking pre arrest bail in Crime No.12 of 2024 registered with P.S Gerello Distt: Larkana for offence under Sections 337-F(v), 337-A(ii), L(i), 504, 34 PPC, after his bail plea was declined by learned Additional Sessions Judge-VI, Larkana vide impugned orders dated 20.05.2024.

2. Details and particulars of the FIR are already available in the memo of instant application, same can also be gathered from the copy of FIR attached with the application, hence need not to reproduce the same hereunder.

3. Mr. Athar Abbas Solangi holding brief for Mr.Ahsan Ahmed Qureshi, counsel for the applicant and states that latter is busy before another Bench of the Court. Such request is opposed by learned counsel for the complainant. In view of above, applicant Mazhar Ali Brohi present in Court is directed to proceed with matter in person. However, learned D.P.G is readover the FIR. Applicant present submits that he is innocent and has been falsely implicated in this case in the background of old dispute over plot otherwise he is not involved in the case. He further submits that there is delay of four days in FIR and admittedly both the witnesses are close relatives of the complainant, therefore, prosecution case against him calls for further enquiry. On all these submissions he prayed for concession of bail.

4. Conversely, learned D.P.G for the State duly assisted by Mr.Javed Ahmed Soomro, who files vakalatnama on behalf of complainant, taken on record, opposed the grant of bail on the ground that applicant/accused is nominated in the FIR with specific role of causing back side hatchet blow to Mst. Sehat Khatoon which is supported by the prosecution witnesses.

5. I have heard learned counsel for the parties and perused the material brought on record.

6. From perusal of record, it reflects that initially three bail applications were filed out of which two were confirmed in favour of co-accused Saeed Ahmed, Aamir and Izhar whereas Cr. Bail Appln. No.298 of 2024 of applicant and so also Cr. Misc. Appln. No. 413/2024 filed by him for recalling the N.B.Ws issued were dismissed by this Court vide consolidated order dated 05.3.2025. Perusal of the said order further reflects that on 05.3.2025 applicant Mazhar Ali was called absent and it was observed at Para No.10 of the order that accused Mazhar Ali Brohi seems to have absconded away as he was allowed to surrender before the trial Court but he did not surrender himself and subsequently did not even appear before this Court. However, pre arrest bail application was dismissed and N.B.Ws issued against him by the trial Court were maintained.

7. From face of FIR, name of applicant appears in the FIR with specific role of causing backside hatchet blow to Mst.Sehat Khatoon which hit her on left leg resultantly she was seriously injured while other accused also caused her hatchet and lathi blows, thus applicant has actively participated in the commission of offence.

8. Record further reveals that ocular evidence finds support from the medical evidence. The PWs in their 161 Cr.P.C statements have fully supported the version of the complainant. At this stage only tentative assessment is to be made. Further for grant of pre-arrest bail the essential requirements are malafide and ulterior motives those are missing in this case. In this respect, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 SCMR 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation....., the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

9. Considering the above facts and circumstances of the case, it appears that the applicant/accused has failed to make out his case for grant of pre arrest bail, as, at this stage, there is sufficient material available on record to connect him with the commission of the alleged offence, hence I do not find it a fit case for grant of bail to the applicant/accused. Resultantly this bail application is dismissed. The interim bail already granted to the applicant vide order dated 27.3.2025 is hereby recalled. Since applicant is required by learned trial Court where N.B.Ws have been issued against him as such he is taken into custody. I.O is directed to produce him before trial Court on the next date of hearing.

10. Needless, to mention here, that the observations made hereinabove are tentative in nature and would not prejudice the case of either party at trial.

JUDGE

Shabir/P.S