

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.939 of 2025

Applicant : Imran Ali son of Muhammad Shahan ,
through Mr. Muhammad Sabar Jogi, Advocate

Complainant : Muhammad Nazakat son of Jahangir Khan
Through Mr. Muhammad Jamil Tanoli,
advocate

Respondent : The State
Through Ms. Rahat Ehsan, Addl. P.G Sindh

Date of hearing : 22.05.2025

Date of order : 30.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Imran Ali, seeks pre-arrest bail in a case bearing crime No. 267/2025, registered at P.S. Zaman Town, for offenses punishable under Sections 337-F(i) and 337-F(vi) PPC. The applicant is aggrieved by the order dated 28.03.2025, passed by the learned IVth Additional Sessions Judge East, Karachi, whereby his pre-arrest bail application was declined.

2. The complainant, lodged FIR No. 267/2025, alleging that the applicant, Imran Ali, used to chase and blackmail his 15-year-old daughter, Faizba, who attended school. Despite prohibitions, Imran allegedly called their house in the complainant's absence. On February 17, 2025, Imran came to Sector B, Bhitai Colony, misbehaved with the complainant. When the complainant's brother, Muhammad Rifakat, intervened, Imran and "Bargar wala" allegedly tortured Rifakat with sticks, causing him injuries. Rifakat was taken to Jinnah Hospital, and the medical report (Final Report No. 1488/25) indicated Injury No. 1 as Ghayr-Jaifah Damihah and Injury as Munaqillah, falling under Sections 337-F(1) and 337-F(vi) PPC respectively.

3. The learned counsel contended that the applicant is innocent and has been falsely implicated in a fabricated case due to malafide intentions and ulterior motives. He raised several points to support the grant of pre-arrest bail, primarily arguing that the case falls within the ambit of "further inquiry" under Section 497(2) Cr.P.C. He argued that on alleged date of incident (February 17, 2025), the applicant was working as a waiter at Al Noorani Restaurant. He claims the complainant along with 8 companions visited the hotel and attempted to kidnap and kill him, but failed due to

public and owner resistance, and that the applicant was brutally tortured. He asserted that CCTV camera footage is available at the hotel but was not collected by the Investigating Officer (IO) to conceal the facts. He also produced CCTV images and medical certificates (Annexure D) to substantiate his claim. The counsel submitted that there was a prior dispute about a year ago between the applicant and the complainant's wife (Gul Naz) regarding payment for chicken broast, which was resolved by a welfare association. Furthermore, the applicant had filed a complaint on November 26, 2024, at the Police Station regarding threats of kidnapping and murder, suggesting an existing animosity and a possible ulterior motive for the present FIR. The story regarding the chasing and blackmailing of Faizba is baseless. No evidence of Faizba studying in any school, nor is the school name mentioned in the FIR. Crucially, the IO has not recorded Faizba's statement under Section 161 Cr.P.C., which casts serious doubts on this aspect of the prosecution story and warrants further inquiry. The medical certificate submitted by the IO is allegedly not concerned with the injured person mentioned in the FIR. The FIR states "Rafique is injured by some one but no any medical certificate of Rafique is produced before any forum yet." This implies a discrepancy between the injured person named in the FIR and the person for whom the medical certificate was obtained (Muhammad Rifakat). This is a significant factual dispute requiring further inquiry. The counsel highlighted that both witnesses mentioned in the FIR are interested parties belonging to the complainant, and despite the area being thickly populated, no independent private witness was mentioned in the FIR. The applicant argued that there is no direct evidence connecting him to the alleged offense in the manner described, and the case is fit for further inquiry under Section 497(2) Cr.P.C.

4. The learned counsel for the complainant, strongly opposed the grant of bail, contending that a strong prima facie case is made out against the applicant. He specifically drew the attention of the Court to the gravity of the injuries sustained by the complainant's brother. He submitted that the medical report clearly indicates that the injured sustained two fractures, which fall under the categories of Jurh-Ghayr-Jaifah Munaqillah (a serious hurt involving dislocating or displacing a bone) and JGJ Damiyah (a hurt causing an internal injury with effusion of blood without breaking the skin). He argued that these are grave injuries, demonstrating the brutal nature of the assault. Furthermore, he emphasized the profound impact of the applicant's alleged actions on the innocent 15-year-old girl, Faizba. He strenuously argued that due to the persistent and harassing

behavior of the applicant, the parents were compelled to stop Faizba from continuing her education, thereby preventing her fundamental right to education. He submitted that the applicant's actions have not only caused physical harm to one individual but have also unjustly curtailed the educational prospects of a young girl, which is an extremely serious consequence that should not be overlooked. He contended that granting pre-arrest bail in such circumstances would send a wrong signal and would be detrimental to justice.

5. The learned APG, representing the State, while relying on the contents of the FIR and the medical report, also joined the complainant's counsel in opposing the bail, particularly stressing the gravity of the injuries and the social impact of the applicant's alleged conduct.

6. The offenses under Sections 337-F(1) (simple hurt/Damihah) and 337-F(vi) (Mudihah - exposing bone without fracture) PPC, while non-bailable, do not fall within the prohibitory clause of Section 497(1) Cr.P.C. In such cases, bail is generally the rule, and its refusal is the exception, unless there are strong grounds to believe that the accused has committed a non-bailable offense and there is a likelihood of his abscondence or tampering with evidence, or that the case otherwise falls within the exceptional circumstances warranting denial of bail.

7. The learned counsel for the complainant has vociferously argued that the injuries sustained are of a serious nature, specifically asserting that the medical report indicates two fractures, categorized as Jurh-Ghayr-Jaifah Munaqillah and JGJ Damiyah. While the FIR explicitly mentions "Ghayr-Jaifah (Damihah) and Injury Mudihah" (which typically relate to less severe injuries than a full fracture and dislocated bone under Munaqillah), this claim by the complainant's counsel, if substantiated by the actual medical record to indicate fractures falling under Munaqillah, would certainly elevate the gravity of the offense. This discrepancy between the FIR's initial description of injuries and the complainant counsel's argument regarding fractures is a critical factual point that requires a definitive determination at the trial stage based on the original medical report and the testimony of the medical officer. Furthermore, the argument regarding the cessation of the girl's education due to the applicant's alleged harassment is a serious concern. While the emotional and psychological impact on a victim and their family is undeniable, at the pre-arrest bail stage, the Court's primary focus is on the existence of a prima facie case and whether there are reasonable grounds for believing

that the accused has committed a non-bailable offense. The aspect of the girl's education being halted, while deeply regrettable, does not, by itself, negate the legal grounds for bail if the case falls within the "further inquiry" clause. The learned counsel for the applicant has raised several plausible grounds that necessitate "further inquiry" into the applicant's guilt, bringing the case squarely within the purview of Section 497(2) Cr.P.C. The applicant's detailed claim of a counter-incident at his workplace, where he was allegedly attacked by the complainant and his companions, supported by the assertion of available CCTV footage and a prior police complaint about threats, creates a strong arguable case for further inquiry. Such a situation often points towards a deeper dispute, or potentially, a false implication or a retaliatory FIR. The existence of counter-allegations requires careful sifting of evidence during trial. The applicant's contention that the medical certificate produced by the investigating officer may not be for the injured person named in the FIR ("Rafique" vs. "Rifakat") or that the medical details are inconsistent with the narrative, is a crucial factual inconsistency that requires deeper investigation and verification by the trial court through expert testimony if necessary. The exact nature of the injuries (simple hurt vs. fracture/dislocation as argued by complainant's counsel) will be definitively established at trial. The allegations concerning Faizba, the complainant's daughter, form a central motive for the alleged assault. However, the lack of her identification (no school/birth certificate), the absence of school details in the FIR, and critically, the non-recording of her statement under Section 161 Cr.P.C. by the IO, despite her being a key figure in the alleged motive, significantly weaken the prosecution's narrative regarding the motive and cast serious doubts on its credibility at this preliminary stage. This omission is a significant lacuna that compels further inquiry. The reliance solely on interested witnesses, despite the incident allegedly occurring in a populated area, further supports the need for a thorough inquiry into the prosecution's claims, especially given the backdrop of apparent enmity. The existence of a prior dispute with the complainant's wife and the applicant's own complaint about threats indicate a history of animosity between the parties, which could provide an ulterior motive for the present FIR, thereby requiring further investigation into the true facts. The cumulative effect of these contentions, particularly the detailed counter-version with supporting claims (CCTV), the inconsistencies regarding the medical evidence, and the significant gaps in the investigation regarding the alleged motive (Faizba's identity and statement), raises a reasonable apprehension that the applicant may have been falsely implicated or that the prosecution's story is not entirely

credible. The determination of these complex factual issues requires a detailed examination of evidence during trial, which is not feasible at the bail stage. The applicant has a stainless record and has expressed willingness to furnish surety, mitigating any risk of abscondence or tampering with evidence. Therefore, despite the serious allegations and the concerns raised by the learned counsel for the complainant regarding the impact on Faizba's education and the severity of injuries (which will be proven on record during trial), this Court is of the tentative view that there are sufficient grounds to believe that further inquiry into the applicant's guilt is required under Section 497(2) Cr.P.C. It is a fundamental principle of criminal justice that bail is not meant to be a punishment, and complex factual disputes are to be resolved during the trial itself. The Court's role at this stage is limited to a tentative assessment of the material.

8. For the foregoing reasons, this Bail Before Arrest Application is allowed. Interim pre-arrest bail granted vide order dated 14.04.2025 to the applicant, Imran Ali S/o Muhammad Shahan is confirmed on same terms and conditions. Accused to cooperate with investigation and join trial.

J U D G E