

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Crl. Bail Application No.S-169 of 2025

Applicant: Ghamshad Ali son of Saleem
Through Mr. Asif Chaudhry, advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G.

Complainant: Ramzan son of Luqman,
Through Mr. Javed Akhtar, Advocate.

Crl. Bail Application No.S-170 of 2025

Applicant: Saleem son of Urs Khan,
Through Mr. Asif Chaudhry, advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G.

Complainant: Ramzan son of Luqman,
Through Mr. Javed Akhtar, Advocate.

Date of hearing: 12.08.2025

Date of order: 12.08.2025

O R D E R

Amjad Ali Sahito, J: Through these two Bail Applications, the applicants/accused seek pre-arrest bail in Crime No.11/2025 for offence under sections 302, 324, 114, 147, 148, 149, 504, 337-A(i) and 337-F(i) P.P.C registered at PS Vijuto, after their bail plea has been declined by the learned trial court vide order dated 25.06.2025.

2. The details and particulars of the F.I.R are already available in bail application and the F.I.R, as such, need not to reproduce the same hereunder.

3. Per learned counsel, the applicants/accused are innocent, and the complainant has falsely implicated the applicants in this case; the F.I.R is delayed for about 06 days, and no plausible explanation has been furnished by the complainant. He further submits that no any offence has taken place and whole story is false and fabricated and there is no specific role against the applicant and the allegations

levelled against the applicant are general in nature. Lastly, he prayed for confirmation of the bail.

4. On the other hand, learned counsel for the complainant and learned D.P.G have opposed the grant of bail to the applicants/accused. Counsel for the complainant submits that specific role of causing multiple serious injuries to PW Wazeer is attributed to the applicant Ghamshad, as such, he prayed that application be dismissed.

5. Heard and perused.

6. From the perusal of the record, it transpires that approximately seven (07) persons, armed with hatchets, appeared at the place of occurrence and, upon questioning the complainant party as to why they were playing MP3 music at a high volume, commenced assaulting them with hatchet blows. As a consequence, one person lost his life while two others sustained serious injuries.

7. The specific allegation against the applicant/accused Ghamshad is that he inflicted a hatchet blow upon the injured Wazeer, which struck the latter on the head and on the right wrist. The injured were initially shifted to Civil Hospital, Mithi; however, owing to the severity of their injuries, they were referred to Civil Hospital, Hyderabad, where the complainant's son, namely Rasool Bux, succumbed to his injuries and expired.

8. The incident appears to have arisen over a trivial matter, yet the accused party caused the death of the complainant's son. Furthermore, learned counsel for the complainant has placed on record a statement along with copies of FIRs, indicating that the applicant/accused Ghamshad has been previously involved in other criminal cases. The ocular account is duly corroborated by the medical evidence. Both the prosecution witnesses, including the injured, have supported the version advanced by the complainant.

9. At the stage of deciding a bail application, only a tentative assessment of the material on record is warranted. In the present case, sufficient material exists to connect the applicant/accused Ghamshad with the alleged offence, including medical evidence, direct eyewitness account, and other circumstantial evidence. No

mala fide or ulterior motive has been attributed to the complainant by the applicant. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakis [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 lave."

10. With regard to the delay in lodging the FIR, the complainant has furnished a satisfactory explanation. It has been stated that the injured persons were initially shifted to Civil Hospital, Mithi, and thereafter referred to Civil Hospital, Hyderabad, where one of the injured succumbed to his injuries. Subsequent to these developments, the complainant appeared at the concerned police station. Hence, the delay in registration of the FIR stands duly explained.

11. In view of the foregoing, learned counsel for the applicant/accused Ghamshad has failed to make out a case warranting the grant of bail. Accordingly, the bail application filed on behalf of the applicant/accused Ghamshad is dismissed, and the interim bail earlier granted to him vide order dated 30.06.2025 is hereby recalled.

12. As regards applicant Saleem, the specific allegation against him is that he instigated the co-accused. It remains to be determined, upon recording of evidence, whether he shared the common intention with the co-accused. The applicant Saleem has, however, succeeded in making out a case for the grant of bail within the purview of subsection (2) of Section 497, Cr.P.C. Consequently, the instant bail application to his extent is allowed, and the interim

pre-arrest bail earlier granted to the applicant Saleem is hereby confirmed on the same terms and conditions.

13. The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

****Faisal****