

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

Criminal Bail Application No.S-143 of 2025

Applicants: Shabir Ahmed s/o Bashir Ahmed.
Through Mr. Afzal Karim Virk, Advocate.

Respondent: The State through Mr. Dhani Bakhsh Mari,
Assistant Prosecutor General, Sindh.

Complainant: Bashir Ahmed (present in person)through
Mr. Aziz Ahmed Laghari, Advocate.

Date of hearing: **21.08.2025**

Date of Order: **21.08.2025**

O R D E R.

AMJAD ALI SAHITO, J:- Through this bail application, the applicant/accused above named seeks his pre-arrest bail in Crime No.32 of 2025, under sections 337-A(i), 337-F(i), 506(ii), 504 & 34 P.P.C, registered at P.S Jhudo, after his bail plea was declined by the learned Additional Sessions Judge-I, Mirpurkhas.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Per learned counsel, the applicant/accused is innocent and has falsely been implicated in the instant case with mala fide intent. It is submitted that the FIR was lodged after an unexplained and inordinate delay of two days, which casts serious doubt on the veracity of the allegations. Learned counsel further submits that the complainant is father of the applicant/accused, who is being used by the other brothers of the

applicant/accused namely Faryad Ali and others. Learned counsel further argued that as per contents of the FIR the present applicant/accused has not caused any injury to his father/complainant. It is further argued that the three co-accused persons have already granted bail by the court below. The sections alleged in the FIR are bailable except section 506(ii) PPC, which was misapplied. Learned counsel further argued that there is no specific role of the applicant/accused so also there is conflict in between ocular evidence and medical evidence. Learned counsel further argued that the applicant/accused no more required for investigation and he is entitled for confirmation of interim pre-arrest bail. Lastly he prayed for confirmation of instant bail application. In support of his contention he has place his reliance on case laws reported in the case of Muhammad Ijaz vs. The State (2022 SCMR 1271), Muhammad Idrees vs. The State and another (2021 MLD 877), Ali Sher vs. The State (2022 P.Cr.LJ Note 33), Muhammad Kamil alias Dewan Kamil vs. The State & another (2017 MLD 767) and Muhammad Jamil vs. Zahidullah alias Zohaib and 2 others (2018 MLD 768).

4. Learned counsel for the complainant as well as learned D.P.G have vehemently opposed the grant of pre-arrest bail to the applicant/accused and they have further argued that the applicant/accused is specifically named in the FIR for inflicting a blow with an iron pipe on the head of the injured Farhad Ali and for sharing a common intention in the attack upon the complainant party. They have further argued that the complainant has challenged the bail, which was granted to the co-accused persons. There is sufficient material available on record to connect the applicant/accused with the alleged offence. They further argued that the applicant/accused is not entitled to the extraordinary relief of pre-arrest bail and prayed for its dismissal.

5. Heard and perused.

6. It is an admitted position that the complainant, Bashir Ahmed, is the father of the present

applicant/accused. The applicant/accused, along with co-accused Azad, both being sons of the complainant approached the complainant at his residence and requested him to lease out his land. Upon refusal, the accused persons began abusing the complainant and pushed him. At that juncture, another son of the complainant, namely Farhad Ali, intervened, whereupon the applicant/accused and co-accused assaulted him with fists and kicks, causing him minor injuries.

7. Subsequent to sustaining such injuries, Farhad Ali, accompanied by the complainant and one Imran, proceeded to the Police Station and obtained a referral letter for medical treatment. Upon arrival at the hospital, the applicant/accused, together with co-accused Azad, Afzal, and Waheed armed with iron rods, an iron pipe, and a hatchet, reached there. The applicant/accused struck Farhad Ali on his head with an iron rod, while co-accused Azad inflicted further blows with iron rods on different parts of his body, resulting in injuries which required medical treatment. The Medico-Legal Certificate reflects that Farhad Ali sustained injuries falling within the purview of Sections 337-A(iii) and 337-A(iv), P.P.C., which pertain to vital parts of the body, including the head. The ocular account of the occurrence finds corroboration from the medical evidence, and the statements of the prosecution witnesses/eyewitnesses, recorded under Section 161, Cr.P.C., fully support the version advanced by the complainant.

8. At bail stage, only tentative assessment is to be made. Sufficient material is available on the record to connect the applicant/accused with the commission of alleged offence. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicant even otherwise he has shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakis [2019 S CMR 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. The learned counsel for the applicant has failed to establish the case for the confirmation of interim pre-arrest bail. Accordingly, the interim bail already granted to the applicant/accused is hereby **dismissed**. The interim bail granted to the applicant vide order dated **02.06.2025** is hereby **recalled**.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE