

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-780 of 2025

[Muhammad Hashim & Others versus The State]

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| Applicants: | Muhammad Hashim, Ashfaq Ali and Azad Ali @ Aizaz through Mr. Ahsan Gul Dahri advocate |
| Respondent: | The State through Mr. Ghulam Murtaza Mallah Assistant P.G |
| Date of hearing | 20.08.2025 |
| Date of Order | 20.08.2025 |

ORDER

TASNEEM SULTANA, J: Through this CrI. Bail Application, the applicants namely Muhammad Hashim , Ashfaq Ali and Azad Ali @ Aizaz seek pre-arrest bail in Crime No.184 of 2025 registered at Police Station Badin under Sections 324, 147, 148, 149, 337-A(i), 337-F(i) and 504 PPC. Their earlier bail application for the same relief being CrI. Bail Application No. 828 of 2025 was declined by the Additional Sessions Judge – I , Badin Vide order dated 11.07.2025.

2. The brief facts of the prosecution case are that, on 06.04.2025, at about 09:20 a.m., the complainant Allah Dino Soomro along with his brother Abdul Aziz and others was present at his house, they heard abusive language being used in the street. On coming out, they allegedly saw: (i) Muhammad Hashim son of Khamiso, and (ii) Ishfaq son of Muhammad Hashim Soomro, both armed with hatchets; (iii) Mubarak alias Karo son of Adam Soomro, and (iv) Abdul Sattar alias Adal son of Allah Dino Soomro, both armed with iron rods; and (v) Aizaz son of Muhammad Hashim Soomro, armed with a lathi were standing there. It is alleged that Muhammad Hashim struck the complainant on the head with a hatchet with intent to commit his murder; Ishfaq struck Abdul Aziz with the back of a hatchet on the forehead; Aizaz struck Abdul Aziz with a lathi above the left eye; Mubarak alias Karo struck the complainant on the head with an iron rod with intent to commit murder; and Abdul Sattar struck the complainant on the head with a hatchet. On their cries, Saleh son of Raman Soomro arrived and intervened, upon which the accused allegedly left the place. Thereafter, the complainant approached the police station for a medical letter, but on assurances of compromise by the notables of the locality the matter was delayed, and ultimately the present

FIR was lodged after several days.

3. Learned counsel for the applicants contends that the applicants are innocent and have been falsely implicated with mala fide intent; that there is an unexplained delay of about ten days in lodging the FIR; that except Section 324 PPC all other offences are bailable, while the applicability of Section 324 PPC is yet to be determined at trial; that the applicants' side has also lodged a cross-FIR against the complainant party in which pre-arrest bail has already been granted to them vide order dated 30.04.2025; that the question as to who was the aggressor and who was aggressed upon can only be determined at trial; and that even the co-accused in this case have been granted bail by this Court as well as by the trial Court vide orders dated 13.06.2025 and 31.05.2025 respectively.

4. On 06.08.2025 the complainant appeared and reposed confidence in the learned State Counsel to proceed with the case.

5. Learned Assistant Prosecutor General opposed the concession of bail on the ground that the applicants are specifically named in the FIR with a clear attribution of causing injuries to the complainant party; that the delay in registration of the FIR stands sufficiently explained, as the complainant was restrained by notables on the pretext of compromise, and only upon their failure the FIR was lodged; and that the role of each accused must be considered independently, hence bail cannot be granted on the ground of parity alone.

6. It is a well-settled principle of law that at the stage of bail the Court is not to undertake a deeper appreciation of evidence, but only a tentative assessment of the available material to determine whether a prima facie case for grant of bail is made out. Keeping this principle in view, the record has been examined.

7. From the record it is evident that the applicants have also lodged FIR No.192 of 2025 at the same Police Station against the complainant party, thereby bringing forth counter-versions of the same occurrence. In situations where cross cases exist, the pivotal issue is not confined to the number or gravity of injuries sustained by one side, but rather to ascertain who was the initial aggressor and who acted in defence. Such determination can only be made after the recording and appraisal of evidence at trial, and thus the matter squarely falls within the ambit of further inquiry. In this regard, guidance is taken from the dictum laid

down by the Hon'ble Supreme Court in *Muhammad Shahzad Siddique v. The State* and another (PLD 2009 SC 58), which enunciates that in cases of counter-versions arising out of the same incident, grant of bail under Section 497(2) Cr.P.C. is ordinarily warranted, as the question of aggression and private defence is to be conclusively determined by the trial Court.

8. This view has consistently been reaffirmed by the Hon'ble Apex Court in *Abdul Hameed v. Zahid Hussain alias Papu Chaman Patiwala and others* (2011 SCMR 606) and *Hamza Ali Hamza and others v. The State* (2010 SCMR 1219). Although bail has already been extended to the complainant party in the counter case vide order dated 30.04.2025, the present applicants were denied such relief by the trial Court.

9. Furthermore, it appears that co-accused in this case have been granted bail by both this Court and the trial Court vide orders dated 13.06.2025 and 31.05.2025 respectively, thereby attracting the rule of consistency. Additionally, there is a delay of about ten days in lodging the FIR, and except for Section 324 PPC all offences are bailable; the applicability of Section 324 PPC is yet to be determined at trial.

10. In light of the principles enunciated by the Hon'ble Supreme Court in *Sheikh Abdul Raheem v. The State* (2021 SCMR 822) and *Riaz Jafar Natiq v. Muhammad Nadeem Dar and others* (2011 SCMR 1708), no exceptional or extraordinary circumstances have been pointed out which would warrant denial of bail. Consequently, the present application is allowed and the interim pre-arrest bail already granted to the applicants vide order dated 18.07.2025 is hereby confirmed on the same terms and conditions.

11. It is, however, clarified that the observations made herein are tentative in nature and shall not prejudice the trial Court in deciding the case on merits.

12. These are the reasons for my short order of dated 20-08-2025

JUDGE