

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

Crl. Bail Application No.S-175 of 2025

Applicant: Raja Sikandar Abring son of Abdul Qadir,
Through Mr. Tehseen Ahmed H. Qureshi,
Advocate.

Respondent: The State.
Through Mr. Dhani Bakhsh Mari, A.P.G Sindh.

Complainant: Muhammad Sohail son of Abdul Qadir.

Date of hearing: 26.08.2025

Date of order: 26.08.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicant/accused seeks pre-arrest bail in Crime No.55/2025 for offence under sections 337-F(v), 337-L(ii), 337-A(i), 337-F(i), 504 and 34 P.P.C registered at PS Digri, after his bail plea has been declined by the learned Additional Sessions Judge-I, Mirpurkhas vide order dated 23.06.2025.

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 applicant/accused is innocent and has been falsely implicated in this case by the complainant; the FIR is delayed for about one month for which no plausible explanation has been furnished by the complainant; the applicant has joined the investigation and attending the court regularly; the offence does not come within the ambit of prohibitory clause of Section 497 Cr.P.C. Lastly, he prayed for confirmation of bail. In support of his contentions, he relied upon the case laws viz: **PLD 2017 Supreme Court 730, 2017 SCMR 728 [Supreme Court of Pakistan], 2012 MLD 362 [Lahore], 2020 P.Cr.L.J Note 23 [Lahore], 2012 SCMR 646 [Supreme Court of Pakistan], 2017 P.Cr.L.J Note 96 [Lahore], 2016 P.Cr.L.J Note 88 [Lahore], 2025 SCMR 629 [Supreme Court of Pakistan], 2024 SCMR 14 [Supreme Court of Pakistan], 2017 SCMR 2060 [Supreme Court of Pakistan], 2017 SCMR 1340 [Supreme Court of Pakistan], PLD 2017 Supreme Court 733 and**

unreported judgment of Supreme Court of Pakistan in Crl. Petition No.310/2025 dated 17.04.2025.

4. On the other hand, learned A.P.G. has vehemently opposed the grant of bail to the applicant/accused. Complainant has also opposed for grant of bail.

5. Heard and perused.

6. Admittedly, the complainant is the younger brother of the applicant/accused, who had previously sold his share of property to third parties. Thereafter, on the complainant's demand, the applicant/accused, being the elder brother, along with co-accused persons, allegedly armed with iron rods, lathis, and hatchets, attacked the complainant. It is specifically alleged that the applicant/accused, after using abusive language, struck the complainant's right hand with an iron rod, causing injuries which, upon medical examination, were declared by the doctor to be *Ghayr-e-Jaifah Hashmiah*. The applicant's name is specifically mentioned in the FIR with a defined role, wherein it is alleged that on the day of incident, he, in concert with co-accused persons, while duly armed with iron rods and hatchets, assaulted the complainant, thereby causing injuries on his right hand. The ocular account stands corroborated by the medical evidence, whereas the prosecution witnesses, in their statements recorded under Section 161, Cr.P.C., have fully supported the version of the complainant.

7. As regards the contention raised by learned counsel for the applicant, referring to Para-7 of the judgment rendered in *Khalil Ahmed Soomro and others vs. The State* (PLD 2017 Supreme Court 730), it is correct that the Hon'ble Supreme Court has held in several pronouncements that Medico-Legal Officers should refrain from assuming the role of prosecutor by categorizing offences under specific provisions of penal law, as it does not fall within their lawful domain. Their duty is confined to describing the nature of injuries under the law, without ascribing penal consequences thereto. Upon perusal of the medical record of the injured, it appears that the doctor categorically described the nature of weapon as a sharp and hard object (Kulhari/hatchet) and declared the injuries to be *Ghayr-e-Jaifah Hashmiah*, falling under Section 337-F(v), PPC. Thus, the medical officer has not contravened the dictum of the Hon'ble

Supreme Court, and has only described the nature of the injuries in accordance with law.

8. Furthermore, as the complainant is none other than the younger brother of the applicant/accused, the element of mala fide is not apparent. The incident, in fact, stems from an ongoing dispute between the parties with respect to agricultural land, wherein the applicant/accused assaulted the complainant, resulting in grievous injuries as mentioned above.

9. At this bail stage, only a tentative assessment is to be made for the grant of bail. Sufficient material is available to connect the applicant/accused with the commission of offence and no mala fide or ill-will 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 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."

10. The applicant has failed to make out a case for the confirmation of pre-arrest bail within the contemplation of subsection (2) of Section 497, Cr.P.C. Consequently, the instant bail application filed by the applicant/accused stands **dismissed**. The interim pre-arrest bail already granted to the applicant vide order dated **07.07.2025** is hereby **recalled**.

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

JUDGE