

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No. S- 465 of 2025.

Applicant: Zulfiqar Ali S/o Haji Kamaluddin Bugti,
through Mr. Rafique Ahmed K. Abro, Advocate.

The State: Through, Mr. Aitbar Ali Bullo, Deputy Prosecutor
General, Sindh.

Complainant: Allah Nazar Bugti, through Mr. Abdul Ghani
Junejo, Advocate.

Date of hearing: 28.08.2025.

Date of Order: 28.08.2025.

ORDER

Ali Haider 'Ada', J. Through this application, the applicant seeks post-arrest bail in Crime No. 30 of 2025, registered at Police Station Taluka, Larkana, for offences under Sections 324 and 34 of the Pakistan Penal Code. Prior to this, the applicant had approached the learned Sessions Judge, Larkana, who entrusted the matter to the learned Additional Sessions Judge-III, Larkana. However, the bail application was dismissed vide order dated 30.04.2025.

2. As per the contents of the FIR, the incident occurred on 04.04.2025 at about 12:00 noon. It is alleged that due to an ongoing land dispute, the applicant/accused inflicted injuries upon the injured Niaz Hussain, causing wounds on his head and left forearm using a machete (knife). The FIR was registered on the same day at about 2100 hours. Subsequently, the applicant/accused was arrested on 06.04.2025 and was allegedly found in possession of the said machete. After conducting the investigation and obtaining the medical opinion, the investigation officer submitted the challan under Sections 324, 337-A(i), 337-F(i), and 337-F(ii) of the Pakistan Penal Code.

3. Learned counsel for the applicant submits that the existence of enmity between the parties has been expressly admitted in the FIR, and a bare perusal thereof reveals that the applicant's name has been implicated due to such prior enmity. It is further submitted that the applicant and the complainant are closely related, and the applicant has been falsely involved on account of said enmity. The learned counsel further contends that the main injury, allegedly sustained on the head, has been medically declared as *Shajjah Khafifah*, falling

under Section 337-A(i) PPC, which is bailable in nature. As regards the second injury on the left forearm, it has been declared as *Ghayr Jaifah Damiyah* and *Ghayr Jaifah Badiyah*, falling under Sections 337-F(i) and 337-F(ii) PPC, respectively. While Section 337-F(i) is bailable, Section 337-F(ii), though non-bailable, does not fall within the prohibitory clause of Section 497(1) Cr.P.C., as the punishment provided therein extends to a maximum of three years. As, further contends that the question of the applicant's involvement requires deeper appreciation of evidence, which can only be determined at trial. Therefore, the applicant seeks the concession of post-arrest bail.

4. On the other hand, learned counsel for the complainant submits that the FIR was lodged promptly and contains specific allegations against the applicant, who has been directly nominated for causing injuries to the injured. It is further contended that Injury No. 2, diagnosed as *Ghayr Jaifah Badiyah*, falls under Section 337-F(ii) PPC, which is non-bailable. Moreover, it is submitted that the recovery of the alleged weapon was effected from the applicant, strengthening the prosecution case. Therefore, in such circumstances, the applicant is not entitled to the concession of bail.

5. Conversely, the learned Deputy Prosecutor General appearing for the State supports the impugned order, contending that the alleged recovery was duly effected and sent for chemical analysis. He further submits that the FIR was lodged without undue delay and attributes a specific and active role to the applicant. Thus, at this stage, the applicant does not deserve the concession of bail.

6. Heard the learned counsel for the parties and examined the material available on the record.

7. The record reflects that there exists a dispute over landed property between the applicant and the complainant party. The complainant attributes the occurrence to this underlying land dispute, alleging that the applicant inflicted injuries during the said altercation. Conversely, the applicant asserts that he has been falsely implicated due to this very enmity. It is a well-settled that enmity is a double-edged weapon, while it may provide a motive for the commission of an offence, it equally offers an opportunity for false implication. In the case of *Abid Ali and others vs. The State and others* (2025 PCr.LJ 383), and similarly in the case of *Allah Rakha and another vs. The State and another* (2025 PCr.LJ 762), it has been observed that while enmity

may provide a motive for the commission of an offence, it equally offers an opportunity for false implication.

8. Furthermore, it is well settled that where enmity between the parties is admitted and the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C., the Hon'ble Apex Court has been pleased to extend the concession of bail in similar circumstances. Reliance is placed on the case of *Faheem Ullah vs. The State* (2024 SCMR 43). So, at this stage, when the existence of prior enmity between the parties stands admitted and forms the basis of the applicant's plea, the possibility of false implication cannot be ruled out. This aspect gains significance particularly when the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C. and deeper appreciation of evidence is required. Further Support is also drawn from the case of *Ghulam Sarwar vs. The State and another* (2025 YLR 83).

9. Furthermore, it transpires from the police *Roznamcha* entry No. 07 dated 04.04.2025 that when the injured appeared before the police functionary, he neither disclosed the name of any assailant nor narrated the details of the incident. This entry, being the first in point of time, is to be treated as the initial version regarding the occurrence. Notably, both the complainant and the injured were completely silent in disclosing the identity of the culprit or the circumstances under which the incident took place. It is also a well-settled principle that while deciding a bail application, the Court is not precluded from touching upon the merits of the case to the extent necessary for determining whether a prima facie case for bail is made out. The scope of bail proceedings includes a tentative assessment of the material available on record. In this regard, reliance is placed upon the case of *Imtiaz Ali and another vs. The State* (2025 PCr.L.J 786).

10. Further, the record reflects that the injury sustained on the head, which allegedly affected a vital part, was medically declared as *Shajjah Khafifah*, attracting Section 337-A(i) PPC, which is bailable in nature. As for the remaining injuries, they are located on non-vital parts of the body and, notably, one of them falls under Section 337-F(i) PPC, which is also bailable. The only non-bailable section applied is 337-F(ii) PPC, which too does not fall under the prohibitory clause of Section 497(1) Cr.P.C., as the maximum punishment prescribed is three years. In such circumstances, where the offence does not fall under the prohibitory clause, and the injuries, viewed collectively, do not reflect extraordinary severity, the case becomes one of

further inquiry. Support in this regard is drawn from the case of *Muhammad Ijaz vs. The State and another* (2022 SCMR 1271), wherein the Honourable Supreme Court held:

"...The offence under section 337-A(i), P.P.C. is bailable in nature whereas the offence under section 337-F(vi), P.P.C. does not fall within the prohibitory clause of section 497, Cr.P.C. In these circumstances, a prima facie doubt has arisen qua the authenticity of the prosecution's case. It has been held by this Court from time to time that benefit of doubt, if established, can be extended even at bail stage. Reliance is placed on Samiullah v. Laiqzada (2020 SCMR 1115) and Muhammad Faisal v. The State (2020 SCMR 971). All these circumstances conjointly persuade us to hold that the case of the petitioner squarely falls within the purview of section 497(2), Cr.P.C. entitling for further inquiry into his guilt and it is the Trial Court who after recording of evidence would decide about the guilt or otherwise of the petitioner."

11. In view of the foregoing, the present applicant has made out a case for grant of bail, as his case falls within the purview of further inquiry under Section 497(2) Cr.P.C. Accordingly, the bail application is allowed. The applicant is admitted to bail subject to his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and a personal bond in the like amount to the satisfaction of the learned trial court. Needless to mention, the observations made hereinabove are tentative in nature and shall not influence the learned trial court in any manner. The trial court shall decide the case strictly on its own merits based on the evidence and material brought before it during the trial.

J U D G E