

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

Criminal Bail Application No.S-62 of 2025

Applicants: Anwar, Sadiq, Ghulam Rasool, Mehar, Atta Muhammad, Ghulam Muhammad, Ismail @ Muhammad Ismail, Ali Akbar and Hakim @ Hakim Ali through Mr. Mir Sarfaraz Ali Talpur, Advocate.

Respondent: The State through Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General, Sindh.

Complainant: Rab Dino (present in person) through Mr. Mir Muhammad Nohri, Advocate for complainant.

Criminal Bail Application No.S-63 of 2025

Applicant: Abdul Karim through Mr. Sarfaraz Ali Talpur, Advocate.

Respondent: The State through Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General, Sindh.

Complainant: Rab Dino (present in person) through Mr. Mir Muhammad Nohri, Advocate for complainant.

Date of hearing: **05.08.2025**

Date of Order: **05.08.2025**

ORDER

AMJAD ALI SAHITO, J:- Through instant bail application, the applicants/accused above named seek their pre-arrest bail in Crime No.12 of 2025, under sections 324, 147, 148, 149, 506(ii), 504, 114, 337-F(vi), 337-L(ii), 337-D, 337-A(i), 337-F(i), 337-F(v) and 427 P.P.C, registered at P.S Diplo, after their bail plea was declined by the learned Sessions Judge, Tharparkar at Mithi vide order dated 07.03.2025.

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 applicants/accused are innocent and have falsely been implicated in the case in hand; that the FIR has been lodged with the delay of 55 days without any plausible explanation; that there is counter versions and the first FIR was registered by the accused party; that the complainant party have not disclosed the names of the present applicants/accused at the time of obtaining letter for their medical treatment; that despite of obtaining Final Medico Legal certificates complainant party lodged the FIR with the delay of seven days; that the persons of one and same family members were booked in FIR; that due to dispute over property complainant booked the present applicants/accused in this case with ulterior motive and applicants are entitled for pre-arrest bail and prayed for confirmation of instant bail application. In support of his contention he has relied upon the case reported in 2022 SCMR 1272, 2023 Y.L.R 690 and 2021 P.Cr.L.J 89.

4. On the other hand, learned counsel for complainant and learned D.P.G vehemently opposed for grant of bail to the applicants/accused; that on the day of incident the complainant party approached to Police Station where letter of their medical treatment was issued and regarding this entry was entered in Roznamcha. They have further contended that the delay in registration of FIR is very much clear, as the complainant approached to the SHO concerned for registration of FIR, who refused to do so, therefore, the complainant approached to the Ex-Officio Justice of Peace and obtained letter for registration of FIR. That the applicants/accused are specifically nominated in the FIR with their specific roles and the alleged offences do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C. The applicants/accused are not entitled for

the extra ordinary relief of pre-arrest bail and prayed for its dismissal.

5. Heard the learned counsel for the respective parties and perused the material available on the record.

6. Upon the perusal of the record, it transpires that the applicants/accused are specifically nominated in the FIR with distinct and well-defined roles attributed to each of them. The injured persons sustained multiple injuries allegedly at the hands of the said applicants/accused.

7. The specific role assigned to applicant/accused **Anwar** is that he inflicted blows with the back side of a hatchet upon Hanif s/o Ishaque, causing injuries which, as per the Medical Board, were opined to constitute *Shajjah-i-Khafifah* punishable under Section 337-A(i) PPC, Other Hurts under Section 337-L(ii) PPC, and *Ghayr Jaifah Munaqillah* under Section 337-F(vi) PPC. The same applicant/accused Anwar also inflicted a blow with the back side of a hatchet upon Sikkiladho, causing an injury which, according to the Medical Board, was declared as *Ghayr Jaifah Hashimah* under Section 337-F(v) PPC.

8. The role attributed to applicant/accused **Ghulam Rasool** is that he caused a blow with the back side of a hatchet to Ghulam Nabi, who also sustained maltreatment at the hands of other applicants/accused. As per the Medical Board, the injuries of Ghulam Nabi were declared as *Ghayr Jaifah Munaqillah* under Section 337-F(vi) PPC and *Other Hurts* under Section 337-L(ii) PPC.

9. Applicant/accused **Mehar** is alleged to have inflicted two hatchet blows upon Hanif s/o Umer, causing injuries which, according to the Medical Board, were declared as *Jaifah* under Section 337-D PPC, *Ghayr Jaifah Damiyah* under Section 337-F(i) PPC, and *Other Hurts* under Section 337-L(ii) PPC.

10. The role assigned to applicant/accused **Ali Akbar** is that he struck a blow with a wooden stick upon Saleh, causing an injury which, as per the Medical Board, was opined to constitute *Other Hurts* under Section 337-L(ii) PPC.

11. With regard to the delay in the registration of the FIR, learned counsel for the complainant contends that an initial entry was made in the *Roznamcha* maintained at the concerned police station on the very first day of the occurrence. Subsequently, all the injured persons were referred to the hospital, and after obtaining their medical certificates, the complainant approached the concerned SHO for the registration of the FIR; however, the SHO refused to lodge the same. Thereafter, the complainant approached the learned Justice of Peace, and upon obtaining a directive for the registration of the FIR, the same was duly registered. Thus, the delay in lodging the FIR stands adequately explained by the complainant.

12. The offences with which the applicants are charged fall within the prohibitory clause of Section 497, Cr.P.C. Furthermore, no allegation of ill-will or mala fide has been attributed by the applicants against the complainant party. On the contrary, the applicants have been specifically named in the FIR with their distinct roles duly described therein. In this regard, reliance is placed upon the dictum laid down by the Hon'ble Supreme Court of Pakistan in 2019 SCMR 1129, wherein it was 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."

13. At bail stage, only tentative assessment is to be made. The ocular evidence is supported by medical evidence. The injured/eye-witnesses of the incident supported the version of the complainant while recording there statement under section 161 Cr.P.C. Sufficient incriminating material is available on record to prima facie connect the applicants/accused with commission of alleged offence. The learned counsel for the applicants has failed to establish a case warranting the confirmation of interim pre-arrest bail. Accordingly, the bail application filed on behalf of the applicant/accused stands **dismissed**. The interim bail granted to the applicants/accused vide order dated **10.03.2025** is hereby recalled.

14. 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