

**HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Cr. Bail Application No.S-328 of 2025.

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objection(s).
	2. For hearing of main case.

13.06.2025.

Mr. Altaf Sachal Awan & Ms. Fatima Zahara,
Advocates for Applicants/Accused.

Mr. Muneer Ahmed Turk, Advocate for complainant.

Ms. Sana Memon, A.P.G for the State.

O R D E R

Muhammad Osman Ali Hadi, J:- Through instant Bail Application, the Applicants/Accused namely, Mahtab s/o Abdul Jabbar & Amjad @ Amjoo s/o Abdul Rahman seek post arrest bail in Crime No.106/2024, registered at Police Station Badin for the offence U/s 302, 324, 337A(i), 114, 147, 148, 149, 504, 109, 34-PPC. Earlier bail plea of the Applicants/Accused was declined by the learned 2nd Additional Sessions Judge, Badin vide order dated 08.02.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, and hence need not be reproduced.

3. Learned Counsel for Applicants/Accused argued that the Applicants/Accused are innocent and have not committed any offence as has been alleged in the FIR. He further contended that the allegations are false, fabricated & concocted; that there are no reasonable grounds to believe that the Applicants/Accused are guilty; that mere presence of Applicant/Accused namely Mahtab has been shown, and no specific role has been attributed against him; that the main co-accused Shakeel has been granted bail by learned Trial Court on a no-objection affidavit by the complainant side; that no role leading to the murder of the deceased has been attributed to the Applicants/Accused; that the fire arm injury as per

FIR is solely attributed against the co-accused Shakil; that no single scratch as per the contents of FIR has been caused by the present Applicants/Accused to the deceased; that the role attributed is of causing of a single lathi (stick) blow to one Asghar Ali Mallah (who is not the deceased), but there is no evidence to suggest that they have caused any life threatening injuries. He has relied upon case law reported as 2016 SCMR 907 & 2022 PCr.LJ Note 33.

4. Learned Prosecutor as well as learned Counsel for complainant vehemently opposed the bail application of Applicants/Accused and argued that the names of Applicants/Accused reflect in the FIR with specific role; that the Applicants/Accused are not entitled for concession of bail; that the present Applicants/Accused had also attacked upon Asghar Ali Mallah. Learned Counsel for complainant relied upon case laws reported as 2008 PCr.LJ 481 & 2009 PCr.LJ 503. However, they have candidly conceded that the only case against Mahtab is that he was present at the time, and the only case against Amjad is that he hit Asghar with a lathi. Both such offences are bailable.

5. Heard & perused.

6. A tentative assessment of the material available on record reflects that the Applicant/Accused No. 1 Mr. Mahtab has not been attributed any specific role except of common intention, whereas the Applicant/Accused No. 2 Mr. Amjad @ Amjoo has been accused of causing a lathi blow to one Asghar Ali Mallah. It is pertinent to note that the said Asghar Ali Mallah is not the deceased in the instant matter. Even the main accused in the matter, namely Shakeel (charged with the murder of Javed Ali "deceased") has already been granted bail by learned Trial Court on the affidavit of no-objection sworn by complainant side. Regarding Applicant/Accused No. 1 Mehtab, no proper role or evidence against him is available, and he does not appear to have any active role in the offense. Moreover, he has already been in custody since 15.03.2024 and his trial has still not concluded. These factors are required to be considered to be considered and as such he is granted bail subject to his furnishing solvent surety in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) and P.R Bond in the like amount to the satisfaction of learned Trial Court.

7. Applicant/Accused No. 2 (Amjad @ Amjoo) has been charged mainly U/s 337A(i) and various other Sections, except 302-PPC. He is also currently facing trial. Upon query of the Court, it has been disclosed by the learned Prosecutor that both the Applicants/Accused have been behind bars since 15.03.2024. The main co-accused who was attributed the serious role of inflicting firearm injuries, has already been allowed bail. As per contents of FIR, the Sections attributed against the present Applicants/Accused does not fall within prohibitory clause of Section 497 Cr.P.C. So far the applicability of Section 324 PPC and vicarious liability is concerned, it would be determined by the learned Trial Court after proper recording of evidence. It is also a well settled principle that bail cannot be withheld as a punishment when the case is made out the bail is to be granted. The prosecution case will not be improved if the Applicants are kept in Jail for indefinite period. The main allegations leveled against the Applicants / Accused are bailable in nature. Further, it is the well-settled principle of law that at the bail stage only a tentative assessment is to be made. Consequently, Applicant (Amjad @ Amjoo) is also admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and PR bond in the like amount to the satisfaction of learned Trial Court. The case laws relied by learned Counsel for complainant are distinguishable with the facts of present case.

8. Accordingly, subject to fulfillment of the bail conditions stated above, the Applicants / Accused are to be released from jail unless required in any other custody matter.

9. 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

Ali.