

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No. S-432 of 2025

Applicant : Javed son of Muhammad Nawaz, Khemtio
Through Mr. Atta Hussain Chandio, Advocate

Complainant : Naimatullah son of Ali Murad, Khemtio
Through Mr. Alam Sher Khan Bozdar, Advocate

The State : Through Mr. Muhammad Raza Katohar, Deputy
Prosecutor General

Dated of Hearing : 03.09.2025
Dated of order : 18.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J- Applicant Javed Khemtio, seeks pre-arrest bail in a case bearing crime No.75 of 2025 offences under Sections 324, 337-H(2), and 34 PPC, registered at Police Station Mirwah, District Khairpur. His bail was denied by the learned Additional Sessions Judge, Mirwah vide order dated 07.05.2025, motivating him to approach this Court for relief.

2. The complainant, Naimatullah, states that about 10 to 11 months back, his brother Ahsan Ali contracted *Nikah* with a girl from village Nawab Khan Khemtio, a union that had not culminated in rukhsati. Due to this matrimonial dispute, the applicant allegedly manifested animosity by threatening not to spare Ahsan Ali. On 09th March 2025, at about 9:00 a.m., while the complainant, his brother, and nephew were engaged in cutting grass, Javed along with two armed unknown accomplices arrived on a motorcycle, pointed pistols at the complainant, and declared their intention to harm Ahsan Ali for contracting the *Nikah*. The applicant reportedly fired at Ahsan Ali who fled towards his house but was hit in the left leg, subsequently collapsing after cries for help. The accused then fired in the air and escaped. The injured was immediately taken to the local hospital and subsequently referred to higher medical facilities, after which the FIR was lodged.

3. The applicant's counsel underscores innocence and false implication stemming from matrimonial discord, highlighting a two days unexplained delay in lodging the FIR, which raises doubts about the prosecution's case. The nature

of injury, to a non-vital part of the body, specifically categorized under Section 337-F(v) PPC carries a maximum punishment of five years imprisonment and does not attract the prohibitory clause of Section 497(1) Cr.P.C. Counsel submitted that the applicability of Section 324 PPC, concerning voluntarily causing hurt with dangerous weapons, requires thorough trial scrutiny and thus the matter speaks to further inquiry under Section 497(2) Cr.P.C. Reliance was placed on 2025 MLD 938 to support the entitlement to bail under these facts.

4. In opposition, the Deputy Prosecutor General stressed the applicant's direct role in inflicting firearm injury, buttressed by corroborative medical evidence. The record clarifies the delay in FIR registration arose due to the complainant prioritizing medical treatment before lodging the complaint, dissolving any presumption of mala fide or contrivance. The complainant's counsel, embracing the prosecution's stance, asserted that Section 324 PPC incorporates the infliction of hurt by dangerous weapons, punishable with up to ten years imprisonment, thus attracting the prohibitory clause of Section 497(1) Cr.P.C., barring bail. Reliance was placed on authoritative precedents including 2012 MLD 377 and 2020 SCMR 1486 to substantiate that offences entailing grievous injury by firearm discharge fall within the prohibitory framework barring bail except in exceptional circumstances.

5. Upon meticulous examination of the record, it is apparent that while the applicant is explicitly named in the FIR with allegations of firing causing injury to the left leg of Ahsan Ali, a material fact remains the two days delay in FIR lodging. This temporal lag merits a reasonable inference of prior consultation and deliberation, which at this stage attenuates the evidentiary weight of the prosecution's case. Jurisprudence holds that delay in FIR registration, unless plausibly explained, weakens prosecution claims and is a relevant consideration for bail purposes (2025 MLD 938).

6. Furthermore, the injury is categorized as Jurh Ghayr Jaifah Hashimah, a non-life-threatening wound punishable by a maximum of five years

imprisonment as per Section 337-F(v) PPC. This punishment is outside the ambit of Section 497(1) Cr.P.C. prohibitory clause, which excludes offences punishable with imprisonment exceeding seven years or capital punishment. The offences falling outside the prohibitory clause, bail is the rule while refusal is the exception unless there are strong grounds for denial.

7. Regarding the inclusion of Section 324 PPC, which criminalizes voluntarily causing hurt with dangerous weapons, the nature and extent of injury, notably its location on the leg, *prima facie* negates an intention to cause grievous injury or *qatl-i-amd* (intentional murder). The question of whether Section 324 applies in full force is a matter for trial evidence evaluation. This Court treats the case as one warranting further inquiry under Section 497(2) Cr.P.C, reinforcing that bail ought not be withheld lightly on this ground alone.

8. It is also significant that the challan has been submitted to the competent court, curtailing any lawful justification for pre-trial custody relating to investigation. The record documents no evidence of bail misuse since the interim pre-arrest bail was granted on 22 May 2025. This Court, therefore, finds no justification to withhold bail.

9. In light of these findings, the interim pre-arrest bail previously granted is hereby confirmed on the same terms and conditions. The observations made are tentative and shall not prejudice the trial court's evaluation or the ultimate adjudication on merits.

J U D G E