

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1584 of 2025

Applicant : Saad Suleman son of Muhammad Suleman Khan through M/s. Naimatullah Khan and Imtiaz Ali, Advocates

Complainant : Danish Ali son of Mushiruddin through Mr. Mudassir Khan, Advocate

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 11.12.2025

Date of decision : 11.12.2025

O R D E R

Jan Ali Junejo, J.- This Criminal Bail Application has been filed under Section 497 Cr.P.C. by the applicant/accused Saad Suleman, seeking post-arrest bail, being aggrieved by the order dated 05.06.2025 passed by the learned Sessions Judge, Karachi Central, whereby the applicant's bail application was dismissed.

2. Briefly stated, the prosecution case, as narrated in the FIR, is that on 20.04.2025 at about 05:30 p.m., the complainant Danish Ali alleged that the applicant, along with a co-accused and unknown persons, engaged in a verbal altercation, during which the applicant allegedly made a single firearm shot causing injury to the complainant. The FIR was registered under Sections 324/34 PPC, and a pistol was stated to have been recovered from the shop attributed to the applicant.

3. Learned counsel for the Applicant contended that the applicant is innocent and has been falsely implicated due to longstanding enmity and as a counter-blast to earlier FIRs lodged by the applicant party against the complainant party. It was argued that there is unexplained delay in lodging the FIR, material contradictions in the medical evidence, and absence of independent private witnesses. Learned counsel further submitted that the

alleged injury is not on a vital part of the body, thereby attracting the rule of further inquiry under Section 497(2), Cr.P.C. It was also contended that the challan has not been submitted within the statutory period prescribed under Section 173, Cr.P.C., rendering the applicant's continued detention unlawful. Reliance was placed on the rule of consistency on the ground that a similarly placed co-accused has already been granted bail. On these grounds, prayer was made for grant of bail to the applicant.

4. Learned counsel for the Complainant, on the other hand, vehemently opposed the bail application, contending that the applicant is specifically nominated in the FIR with a direct and active role in the commission of the offence. It was argued that the allegations are supported by medical evidence, that the offence is serious in nature, and that sufficient incriminating material is available on record. Learned counsel submitted that the applicant does not deserve the concession of bail and prayed for dismissal of the bail application.

5. Learned Additional Prosecutor General for the State adopted the arguments advanced by learned counsel for the complainant and further contended that the recovery of the weapon has been shown from the applicant and that the offence falls within the prohibitory clause of Section 497, Cr.P.C. It was argued that the prosecution has been able to make out a *prima facie* case against the applicant, and therefore, he is not entitled to the concession of bail. Learned A.P.G. accordingly prayed for dismissal of the bail application.

6. I have heard learned counsel for the parties at length and have carefully perused the available record, including the FIR, medical documents, the impugned order, and the relevant law. Upon a tentative assessment, it appears that the case involves admitted previous enmity and multiple counter-FIRs between the parties, which *prima facie* lends support to the defence plea of counter-blast. The FIR attributes a single firearm shot to the applicant, and the medical material shows that the injury is not on a vital part of the body, which is a relevant consideration at the bail stage. This circumstance *prima facie* casts doubt on the prosecution's assertion of an intention to commit murder, an essential ingredient of the offence under Section 324, P.P.C. Consequently, the matter calls for further inquiry to determine whether the nature and placement of the injury were such as to cause death in the ordinary course of nature or merely reflective of an intention to cause harm of a lesser degree. Reliance is placed on the principle laid down by the Honourable Supreme Court in case of ***Ali Raza v. The State and others (2022 SCMR***

1245), wherein it was observed that: “*It is also an admitted position that the petitioner fired only single shot at the non-vital part i.e. wrist of the injured PW and had not repeated the same despite having ample opportunity to do so, which shows that perhaps the petitioner had no intention to kill the injured PW*”. Reference may also be made to the principle enunciated by the Honourable Supreme Court of Pakistan in the case of ***Jamaluddin and another v. The State (2023 SCMR 1243)*** wherein it was held that: “*The complainant and the injured PW received injuries on the non-vital parts of the body and the petitioners did not repeat the fire despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable in the case or not would be determined by the learned Trial Court after recording of evidence.* As far as the question which requires the attention of this Court is that petitioner Jamaluddin has been granted ad interim pre-arrest bail by this Court whereas the other petitioner Rabail has filed petition claiming post-arrest bail. As far as the principle enunciated by this Court regarding the consideration for grant of pre-arrest bail and post-arrest bail are entirely on different footings is concerned, we have noticed that in this case both the petitioners are ascribed the same role. For the sake of arguments if it is assumed that the petitioner enjoying ad interim pre-arrest bail is declined the relief on the ground that the considerations for pre-arrest bail are different and the other is granted post-arrest bail on merits, then the same would be only limited upto the arrest of the petitioner Jamaluddin because of the reason that soon after his arrest he would be entitled for the concession of post-arrest bail on the plea of consistency”. There are two medical reports reflecting variance in nature of injury, which requires deeper appreciation at trial. No independent private witness has been cited, despite the incident allegedly occurring at a public place. The co-accused has already been enlarged on bail, and denial of bail to the present applicant would offend the principle of consistency, in absence of distinguishing features. At this stage, the material available raises reasonable doubt and attracts the provisions of further inquiry under Section 497(2) Cr.P.C.

7. It is a settled principle of law that bail is not to be withheld as a measure of punishment, and where the prosecution case calls for further inquiry, the accused is entitled to concession of bail. Determination of guilt, credibility of witnesses, and evidentiary value of alleged recovery are matters to be decided during trial. Keeping in view the tentative nature of observations, this Court is of the considered opinion that the applicant has succeeded in making out a case for grant of bail.

8. For the reasons stated above, this Criminal Bail Application is allowed, and the applicant/accused Saad Suleman son of Muhammad Suleman Khan is hereby admitted to bail, subject to his furnishing: Solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand Only), and Personal Recognizance (P.R.) bond in the like amount, to the satisfaction of the learned Trial Court, in FIR No. 264 of 2025, under Sections 324/34 PPC, registered at Police Station Shahrah-e-Noor Jahan, Karachi. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. These are the detailed reasons of the Short Order dated: 11.12.2025.

JUDGE