

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No.S-915 of 2025

Applicant : Bahadur Ali @ Bahadur @ Shahzado s/o
Ahmed @ Haji Ahmed, Kalhoro
Through Mr. Imtiaz Ali Malano, Advocate

Complainant : Ubedullah s/o Muhammad Sharif, Kalhoro
Through Mr. Abdul Sattar Malano, Advocate

The State : *Through Mr. Mansoor Ahmed Shaikh, DPG*

Date of hearing : 29.01.2026
Date of Order : 29.01.2026

ORDER

KHALID HUSSAIN SHAHANI, J.- The applicant seeks confirmation of interim pre-arrest bail in Crime No.94 of 2025, for offences under Sections 364, 324, 114, 148 and 149, PPC, registered at Police Station Adilpur, District Ghotki, after refusal of such relief by the learned Additional Sessions Judge-II, Ghotki, vide order dated 23.09.2025.

2. As per FIR lodged on 01.09.2025 at 1900 hours, a day after the incident of 31.08.2025, the complainant alleged that due to a pre-existing community dispute, the applicant's side had been extending threats of kidnapping and murder; that while the complainant, his son and brother were sitting at a hotel at Changulani, the present applicant and co-accused, armed with lathis and pistols, arrived on motorcycles, forcibly took the complainant to Kadwari Link Road near Achi Masjid, questioned him about the dispute, threatened to kill him and, on the instigation of co-accused Nadeem, the applicant allegedly fired upon him, causing a single firearm injury on the right arm, whereafter the accused fled and the complainant proceeded for medical treatment and lodgment of FIR.

3. Learned counsel for the applicant argued that there is an admitted, unexplained delay of about twenty-six hours in registration of the FIR in a background of admitted enmity, which creates serious doubt and

suggests deliberation and consultation. He pointed out that no independent witness from the hotel or surrounding locality has been cited, despite the incident allegedly originating at a public place, and that the applicant has a history of prior and subsequent cases arising out of the same enmity in which he has either been acquitted or granted bail, indicating possible mala fide in his repeated implication. He further submitted that the medico-legal certificate shows only one firearm injury, classified as Ghayr-Jaifah Mutalimah under Section 337-F(iii) PPC, punishable with imprisonment up to three years, thus taking the case outside the prohibitory clause of Section 497 Cr.P.C, and that the Medical Officer has opined that manipulation of the injury cannot be ruled out, rendering the medical evidence itself doubtful at this stage and attracting the principle of further inquiry under Section 497(2) Cr.P.C, as recognized in recent case law such as (2025 YLR 2812) and (2025 YLR 1954), where delay in FIR, non-prohibitory injury and assailable medical opinion were treated as strong grounds for bail under Section 497(2) Cr.P.C.

4. Conversely, learned counsel for the complainant, assisted by learned DPG, opposed confirmation of pre-arrest bail on the grounds that the medico-legal opinion has been challenged before the Medical Board; that the applicant is specifically named with the role of making a straight fire upon the complainant with an alleged intent to commit his murder; and that in such circumstances the case does not fall within the ambit of Section 497(2) Cr.P.C, nor warrants confirmation of the extraordinary relief of pre-arrest bail.

5. I have considered the submissions and examined the available material. The occurrence is alleged to have taken place on 31.08.2025 at 1700 hours, whereas the FIR was lodged on 01.09.2025 at about 1900 hours, involving a delay of twenty-six hours which, in the context of

admitted enmity, has not been satisfactorily explained. At the bail stage, unexplained delay in FIR, particularly where parties are admittedly inimical, has been consistently treated by the superior Courts as a circumstance creating doubt and providing room for deliberation and consultation, thus making the possibility of false implication a relevant factor for purposes of further inquiry under Section 497(2) Cr.P.C. It also remains significant that, despite the incident allegedly having commenced at a public hotel, no independent person from the hotel or vicinity has been cited as a witness, and the case presently rests on related, inimical witnesses, which further justifies treating the matter as one of further inquiry.

6. It is also not disputed that the applicant was previously nominated in Crime Nos.39/2020 and 44/2020, in which he was acquitted by competent Courts, and, subsequent to the present incident, in Crime No.14 of 2025 of Police Station Adilpur, in which he has been granted pre-arrest bail by the learned Additional Sessions Judge-I, Ghotki. The pattern of repeated implication against the backdrop of acknowledged animosity cannot be ignored at this stage and *prima facie* lends support to the plea of possible mala fide and ulterior motive in roping in the applicant, thereby reinforcing the applicability of the principles of further inquiry, and the fundamental right to liberty.

7. With regard to the nature of injury, the medico-legal certificate reflects a single firearm injury, opined as *Ghayr-Jaifah Mutalahimah* under Section 337-F(iii) PPC, punishable with imprisonment extending up to three years, hence the case, on the current medical record, does not fall within the prohibitory clause of Section 497 Cr.P.C. It is settled that where the offence does not hit the prohibitory clause, grant of bail is a rule and refusal an exception, in the absence of any exceptional or extraordinary

circumstances. Whether the ingredients of Section 324 PPC, are ultimately made out in the face of a single injury on a non-vital part of the body and absence of repeated firing, despite the complainant allegedly being at the mercy of his assailant, is a matter to be finally determined by the trial Court on evidence, and at this stage it squarely falls within the ambit of further inquiry.

8. The Medical Officer has further opined that manipulation of the injury cannot be ruled out, whereas the complainant's side maintains that the existing medico-legal opinion has been challenged before the Medical Board and no final opinion has yet been rendered. This conflict in medical stance itself shows that the true nature and effect of the injury is a disputed factual issue, which, at the bail stage, must operate in favour of the accused under the settled principle that in cases of doubt, liberty is to be preferred over pre-trial detention.

9. Another material aspect is that co-accused Anwar and three others have already been granted pre arrest bail by the learned Additional Sessions Judge-II, Ghotki, the doctrine of consistency and parity requires that similarly placed accused, assigned comparable roles, are not treated disparately without strong reasons, especially when the case is outside the prohibitory clause and the question of guilt is yet to be adjudicated at trial. The record also shows that, after investigation, the case was proposed to be disposed of in "B-Class", but the learned Magistrate, disagreeing with the police report, took cognizance against the applicant; this divergence of view between the investigating agency and the Magistrate on sufficiency of material against the applicant further fortifies the conclusion that, at this tentative stage, the case falls within further inquiry in terms of Section 497(2) Cr.P.C.

10. In the cumulative factual and legal background comprising unexplained delay in FIR in a case of admitted enmity, absence of independent witnesses, prior and subsequent litigations indicating possible mala fide, a single non-prohibitory injury with contested medico-legal opinion and absence of repeated firing, grant of bail to co-accused on parity and the conflicting stances of the investigating agency and Magistrate, the applicant has succeeded in making out a case for confirmation of the extraordinary relief of pre-arrest bail, while remaining present before the Court and cooperating with investigation, in line with the settled parameters for such relief.

11. Resultantly, this criminal bail application is allowed. The interim pre-arrest bail earlier granted to the applicant on 25.09.2025 is hereby confirmed on the same terms and conditions already imposed.

12. The observations made herein are tentative, confined to disposal of this bail application, and shall not prejudice the case of either party nor influence the learned trial Court, which shall decide the matter strictly in accordance with law and evidence.

J U D G E