

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-1250 of 2025

Applicant : Nasir S/o Atta Muhammad, Solangi  
*Through* Mr. Shabbir Ali Bozdar, Advocate

The State : *Through* Mr. Muhammad Raza Katohar, DPG

Date of hearing : 29.01.2026  
Date of order : 29.01.2026

## **O R D E R**

**KHALID HUSSAIN SHAHANI, J.**— Applicant Nasir seeks post-arrest bail in a case bearing Crime No.15/2025 for offences under Sections 324, 504 and 34 PPC, registered at Police Station Khenju, District Ghotki, his earlier plea having been declined by the learned Additional Sessions Judge, Daharki, on 29.09.2025.

2. The prosecution alleges that on 17.08.2025 at about 11:15 a.m, the applicant, along with co-accused, intercepted the complainant party and that the applicant made two straight fires with a pistol upon Khadim Hussain with intent to commit his murder, leading to the FIR lodged on 20.08.2025.

3. Learned counsel for the applicant argues that due to admitted prior enmity arising out of the murder of applicant's father, in which the complainant side was implicated, false nomination after deliberation cannot be ruled out, particularly when there is a delay of about three days in lodging the FIR despite the police station being at a short distance and despite the complainant party earlier approaching the police for a medical letter without naming the applicant. He submits that all prosecution witnesses are *inter-se* related and no independent person from the locality has been associated, though the alleged occurrence took place at or near a public thoroughfare. He further points out that the trial Court has already framed charge, yet despite repeated process, including coercive measures, the complainant and eye-witnesses are avoiding appearance and are shown as absconding, resulting in stagnation of the trial and leaving no realistic prospect of its early conclusion, so the applicant cannot be confined indefinitely for the complainant's inaction.

4. On the medical side, it is emphasized that although the FIR speaks of two fires, the medico-legal certificate records one firearm injury: a lacerated punctured wound measuring 1 x 1 cm with blackening over the front of abdomen, left side, as wound of entrance, and a lacerated wound 2 x 2 cm over the left side back of abdomen as wound of exit, with no other corresponding injury. The X-ray of abdomen reveals no bony fracture or radio-opaque metallic shadow, and the injury is opined as *Jurh Ghayr-i-Jaifah Mutalahimah* under Section 337-F(iii) PPC, punishable with imprisonment which may extend to three years, thus not attracting the prohibitory clause of Section 497 Cr.P.C. This discrepancy between alleged “two fires” and a single classified injury, coupled with its non-*jaifah*, non-life-endangering nature, makes the exact applicability of Section 324 PPC; a matter for determination at trial rather than an assumption at the bail stage. It is also submitted that although two empty shells are said to have been recovered from the spot and a pistol allegedly recovered from applicant subsequently sent for analysis and report in respect thereof though positive gives negative inference of matching; therefore, the evidentiary worth and sanctity of such recovery remain to be tested during trial.

5. It is further contended that the applicant has been in custody since arrest, nothing remains to be recovered from him, he is not shown to be a previous convict, and there is no material indicating that, if enlarged on bail, he would abscond, tamper with evidence or misuse the concession of bail, especially when the complainant party itself is avoiding the process of the Court and causing delay. Reliance is placed on *Jamaluddin & another v. The State* (2023 SCMR 1243), wherein it was held that where injuries are on non-vital parts and fire is not repeated despite opportunity, the question whether Section 324 PPC is ultimately attracted is to be decided by the trial Court after evidence, and in such circumstances the matter falls within “further inquiry” for bail. Reliance is also placed on *Khalil Ahmed Soomro v. The State* (PLD 2017 SC 730), *Wajid Ali v. The State & another* (2017 SCMR 116), *Wahid Khan & another v. The State*

(2025 MLD 938) and *Syed Zaman Shah & others v. The State* (2021 MLD 2106), which affirm that where injuries in an alleged attempt to commit qatl-i-amd do not squarely attract the prohibitory clause and the question of intention remains arguable, the accused is entitled to bail on the ground of further inquiry to avoid converting pre-trial detention into punishment.

6. Conversely, learned DPG submits that the applicant is specifically nominated with a clear role of firing at the injured with intention to commit his murder; that motive, i.e revenge for the murder of the applicant's father, is clearly mentioned; that delay in FIR is explained by the emergent shifting of the injured from Taluka Hospital Daharki to Civil Hospital Mirpur Mathelo; that ocular account is supported by statements under Section 161 Cr.P.C. and medical evidence; and that once the victim is hit by a fired shot, the intention or knowledge to commit murder stands manifested, attracting Section 324 PPC and the prohibitory clause of Section 497 Cr.P.C.

7. Having heard the parties and made a tentative assessment, I find that the cumulative effect of the material on record *prima facie* brings the case within the ambit of "further inquiry" under Section 497(2) Cr.P.C. The delay of about three days in lodging the FIR, despite proximity of the police station and earlier approach of the complainant party for a medical letter without naming the applicant, coupled with admitted prior enmity, reasonably creates doubt about the spontaneity of the prosecution version and raises the possibility of afterthought and false implication. The single firearm injury with entry and exit wounds on the abdomen, classified as Jurh *Ghayr-i-Jaifah Mutalahimah* under Section 337-F(iii) PPC, punishable up to three years and not declared life-endangering, makes the exact attractability of Section 324 PPC a matter for the trial Court, in line with the principle in *Jamaluddin & another v. The State* (2023 SCMR 1243). The non-association of any independent witness, the yet-unsubstantiated recovery pending FSL, the framing of charge and subsequent persistent non-appearance and absconding of the complainant and eye-witnesses

despite coercive process, and the resulting absence of any realistic prospect of early conclusion of trial, all weigh in favor of bail, especially when the applicant is not a previous convict and there is no concrete material of likely misuse of liberty.

8. In view of the principles enunciated in *Jamaluddin & another v. The State* (2023 SCMR 1243), *Khalil Ahmed Soomro & others v. The State* (PLD 2017 SC 730), *Wajid Ali v. The State & another* (2017 SCMR 116), *Wahid Khan & another v. The State* (2025 MLD 938) and *Syed Zaman Shah & others v. The State* (2021 MLD 2106), the present matter, on the available record, squarely falls within “further inquiry” as contemplated by Section 497(2) Cr.P.C, and continued incarceration in these circumstances would amount to pre-trial punishment, contrary to the settled rule that bail is a rule and jail an exception. Accordingly, the application is allowed and applicant Nasir is admitted to post-arrest bail on his furnishing solvent surety in the sum of Rs.200,000/- (Rupees two hundred thousand only) and a P.R. bond in the like amount to the satisfaction of the trial Court.

9. The applicant shall regularly attend the trial and shall not in any manner influence or intimidate prosecution witnesses or misuse the concession of bail; in case of breach, the prosecution/complainant may seek cancellation of bail in accordance with law. The observations made herein are tentative and shall not prejudice either party at trial, which shall be decided independently on the basis of evidence.

**J U D G E**