

**HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS.**

Criminal Bail Application No.S-329 of 2026

Applicant: Khan @ Khalid s/o Ishaque
Through Mr. Mehfooz Ali Laghari,
Advocate.

Complainant: Piyar Ali s/o Khuda Bux
(present in person; expresses his
confidence in the learned D.P.G.).

Respondent: The State
Through Mr. Ghulam Abbas D.P.G.

Date of hearing: **08.07.2026**
Date of Order: **08.07.2026**

ORDER.

Khalid Hussain Shahani, J.— Through the instant application, the applicant, Khan @ Khalid, invokes the extraordinary jurisdiction of this Court, praying for enlargement on post-arrest bail in Crime No. 08 of 2026, registered under Sections 324, 337-A(i), 337-F(i), 504 & 34, P.P.C., at Police Station Girhore Sharif. It stands admitted inter partes that an antecedent application seeking parity was declined by the learned Additional Sessions Judge-II, Mirpurkhas, vide order dated 12.06.2026.

2. The prosecution narrative, as reflected from the record, is that the complainant and accused Shahid, being close relatives, fell into discord after the accused allegedly circulated photographs of the ladies of the complainant's family on social media. The complainant's grievance before the community elders is said to have provoked threats from the accused. On 28.05.2026, at about 2:30 p.m., while the complainant and his brother Sohail Ahmed were present at a barber shop at Girhore Sharif, the accused Shahid Khaskheli (armed with a hatchet), Khano (armed with an iron rod), Shan, and Naeem arrived on motorcycles, abused the complainant, and inflicted a hatchet blow upon Sohail Ahmed's head, followed by further blows, with intent to commit murder. The injured was treated at RHC Phulladiyoon and later at DHQ Hospital, Mirpurkhas. The F.I.R. was lodged after his discharge.

3. Learned counsel for the applicant contended that his client stands falsely implicated with mala fide intent. The overt act of inflicting the hatchet blow is attributed exclusively to co-accused Shahid Khaskheli, while the applicant's role is confined to mere presence at the scene carrying an iron rod, with no allegation of injury or overt participation. Counsel further submitted that the F.I.R. suffers from an unexplained three days delay, eroding its evidentiary sanctity; that barring Section 324, P.P.C., the remaining offences are bailable and, being unpunishable by death or life imprisonment, attract the rule that "grant of bail is a rule and refusal is an exception," as held in *Tariq Bashir and others v. The State* (PLD 1995 SC 34). Reliance was also placed on the concession of bail already extended to co-accused Shan by the trial court, invoking the rule of consistency.

4. The complainant, on notice, appeared and reposed confidence in the learned D.P.G.

5. The learned Deputy Prosecutor General opposed the grant of bail, contending that the allegations are grave and the applicant's role disentitles him to such concession.

6. This Court has given anxious consideration to the rival contentions and, with the assistance of learned counsel for the parties, has meticulously scrutinized the record, mindful of the salutary principle of **audi alteram partem**.

7. A close examination of the record discloses that the overt act of inflicting the hatchet blow is attributed solely to co-accused Shahid Khaskheli, while no injury or overt act is ascribed to the present applicant, whose alleged role is confined to bare presence at the scene while carrying an iron rod. This distinction is material, as only a tentative assessment of the record is warranted at the bail stage to determine whether a prima facie case is made out.

8. It is further noted that the F.I.R. was lodged three days after the occurrence, and no plausible explanation for such delay appears on record. An unexplained delay in setting the criminal law into motion casts a shadow over the veracity of the prosecution version and renders the matter fit for further inquiry, as illustrated in *Qurban Ali's case* (2017 SCMR 279), where

the Supreme Court granted bail on account of an undifferentiated role and doubts surrounding the prosecution narrative.

9. Whether the applicant shared the common intention requisite to attract Section 324, P.P.C., is a question that can only be conclusively determined upon recording of evidence at trial. It is settled law, as authoritatively expounded in *Tariq Bashir and others v. The State* (PLD 1995 SC 34), that where the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., the grant of bail is the rule and refusal the exception. The applicant's alleged liability, at this stage, falls squarely within the contemplation of further inquiry under subsection (2) of Section 497, Cr.P.C.

10. As regards the invocation of the rule of consistency, the Hon'ble Supreme Court in *Bakhti Rahman v. The State* (2023 SCMR 1068) clarified that this doctrine cannot be mechanically extended to cases where the role attributed to the accused seeking parity is factually distinguishable from that of the co-accused already enlarged on bail. In the present case, however, no such distinction exists: co-accused Shan, like the applicant, is assigned merely a role of presence at the scene without any overt act of assault, and has already been admitted to bail by the trial court. The rule of consistency, properly applied on these facts, therefore operates in the applicant's favor.

11. Upon a tentative appraisal of the record, this Court is satisfied that the case against the applicant falls within the ambit of further inquiry, obviating any justification for his continued deprivation of liberty. It is well settled that every accused is presumed innocent until proven guilty, and bail cannot be withheld as an instrument of pre-trial punishment. Where culpability remains enshrouded in reasonable doubt necessitating further inquiry, the grant of bail is not a matter of judicial grace but one flowing *ex debito justitiae*, as a right owed in the debt of justice.

12. In consequence of the foregoing discussion, the instant bail application is allowed, and the applicant, Khan @ Khalid, is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs. 50,000/- (Rupees Fifty Thousand only), together with a personal bond in the like amount, to the satisfaction of the learned Trial Court.

13. It is, however, made abundantly clear that the observations recorded hereinabove are of a tentative and provisional character, confined strictly to

the disposal of the instant bail application, and shall in no manner whatsoever prejudice or fetter the discretion of the learned Trial Court in adjudicating the matter on its intrinsic merits, the same having been rendered sans any final determination of guilt or innocence.

JUDGE

Adnan Ashraf Nizamani