

IN THE HIGH COURT OF SINDH CIRCUIT COURT, MIRPURKHAS
Crl. Bail Application No.D-08 of 2025

Before
Mr. Justice Mohammad Abdur Rahman
Mr. Justice Jan Ali Junejo.

Applicant/ accused: Abdul Majeed s/o Allah Dad Khan
Through Mr. Ghulam Rasool Samoon advocate.

The State: Through, Mr. Ghulam Abbas Dalwani, D.P.G.

Date of hearing: 15.07.2025

Date of Order: 15.07.2025

ORDER.

Jan Ali Junejo, J. – Through this criminal bail application, the Applicant seeks post-arrest bail in connection with FIR No.18 of 2025 under Sections 324, 353, 337-H(ii), 337-A(i) of Pakistan Penal Code (PPC) R/W Section 6/7 ATA registered with P.S Kot Ghulam Muhammad. The applicant's bail was initially denied by the learned Anti-Terrorism Court Mirpurkhas Division @ Mirpurkhas via order dated 29.05.2025 under Criminal Bail Application No.42/2025, which is now being challenged before this Court.

2. This case stems from an F.I.R. lodged by Complainant SIP Ali Hassan at Police Station Kot Ghulam Muhammad, disclosing that on 23.02.2025 during patrol duty, SIP Ali Hassan and HC Umed Ali received a report at 1940 hours from PC Jamil Ahmed. PC Jamil reported that accused Ghazi Khan (armed with a pistol) and applicant Majeed (armed with a hatchet) had defied a police stop signal at Lakra Police Picket and resisted authorities. Shortly thereafter, their relatives, namely Pandhi, Ayaz Ali, Mohib Ali, Fazal, and approximately 10–11 others armed with hatchets and clubs, arrived, heightening anticipation of an imminent attack. Upon the police team's arrival at the scene, Ghazi Khan fired a shot to incite panic, and PC Jamil was discovered injured. The accused fled immediately, and PC Zubair subsequently confirmed that Majeed struck PC

Jamil's head with a hatchet. PC Jamil was administered first aid at Taluka Hospital Samaro before referral to Hyderabad for advanced treatment, prompting SIP Ali Hassan to register the F.I.R. at 10:00 p.m.

3. Learned counsel for the applicant contends that the injury attributed to the applicant falls under Section 337-A(i) PPC, which is bailable in nature; that Section 324 PPC and Sections 6/7 of ATA have been misapplied as there is no repeated assault, no life-threatening injury, and no conduct amounting to terrorism as per the settled principles laid down by the superior Courts. It is further urged that co-accused have already been granted bail, some on pre-arrest and others on post-arrest basis, and the rule of consistency demands similar treatment to the applicant. Additionally, no weapon was recovered from the applicant, the investigation is complete, the challan has been submitted, and the injured PW-PC Jamil Ahmed has filed an affidavit expressing no objection to the grant of bail to the applicant. Therefore, the case falls within the ambit of further inquiry under Section 497(2) Cr.P.C. Lastly, the learned counsel prayed for grant of bail.

4. Learned Deputy Prosecutor General has opposed the bail but candidly does not dispute the filing of the no-objection affidavit by the injured PC Jamil Ahmed and also acknowledges that the investigation has concluded.

5. We have considered the arguments advanced by the learned counsel for the parties and, with their valuable assistance, undertaken a tentative assessment of the material available on record, as permissible at the bail stage under the law. A perusal of the record reveals that it is an admitted fact that the applicant is nominated in the FIR and is attributed a single hatchet blow to the head of PC Jamil Ahmed. According to the contents of the FIR and the accompanying medical record, the injury attributed to the applicant is classified as *Shajjah-i-Khafifah*, punishable under Section 337-A(i) PPC, which is a bailable offence.

Likewise, Section 337-H(ii) PPC is also bailable. The invocation of Section 324 PPC in the given circumstances gives rise to a substantial legal question warranting judicial scrutiny during trial, particularly when no clear intent to kill can be inferred from a solitary, non-fatal blow. Notably, there is no allegation of repeated blows or any continued assault by the applicant beyond the initial act. This lends credence to the argument that the essential ingredient of *intention to commit murder*, as required under Section 324 PPC, appears lacking on the face of the available evidence. In a case with analogous facts, the Honourable Supreme Court of Pakistan, in ***Ali Raza v. The State and others (2022 SCMR 1245)***, held 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”.

6. The prosecution has also invoked Sections 6/7 of the Anti-Terrorism Act, 1997, citing the alleged assault on a police officer while performing his duty. However, mere assault on a police officer does not ipso facto constitute “terrorism” within the meaning of Section 6 of the Act. In the facts and circumstances of the present case, the applicant is a private individual, and the alleged act appears to have arisen spontaneously upon refusal to stop at a police check-post, allegedly resulting in a solitary injury. The alleged participation of accused and lack of recovery of any weapon from the applicant further clouds the application of Sections 6(n) and 6(o) of ATA. Whether the accused acted as part of a larger armed resistance, or whether the incident constitutes an act of “terrorism”, requires deeper judicial determination at the trial stage. This uncertainty squarely attracts the provisions of Section 497(2) Cr.P.C., which mandate that where the existence of reasonable grounds for believing that the accused has committed a non-bailable offence is doubtful, the accused shall be entitled to bail on the ground of further inquiry.

7. Moreover, the injured PC-Jamil Ahmed has sworn an affidavit stating that he has no objection to the grant of bail in favour of the applicant. While such a statement is not, by itself, conclusive, it constitutes a relevant and material factor for consideration, particularly in light of what appears to be an amicable settlement between the parties. It is well-settled that although Sections 6 and 7 of the Anti-Terrorism Act, 1997 are non-compoundable, the question of their applicability is a matter to be determined at trial based on the evidence adduced. In contrast, the remaining offences under Sections 324, 337-H(ii), and 337-A(i) PPC are compoundable. In these circumstances, the no-objection expressed by the injured at this stage may justifiably be taken into account while deciding the

bail application. The co-accused have been granted bail, making the rule of consistency fully applicable. The investigation has been completed, and the applicant is no longer required in custody. In view of the above discussion, we are of the opinion that the case of the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

8. For the reasons discussed hereinabove, the instant Criminal Bail Application stands allowed. Consequently, the applicant, Abdul Majeed son of Allah Dad Khan, is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.75,000/- (Rupees Seventy-Five Thousand only), along with a Personal Recognizance Bond in the like amount, to the satisfaction of the learned Trial Court. It is further clarified that the observations made herein are tentative in nature and are meant solely for the purposes of the present bail proceedings. These shall not prejudice the case of either party nor shall they influence the learned Trial Court, which shall decide the matter strictly on its own merits, based on the evidence available on record and in accordance with law. These are the detailed reasons for the short order announced on 15-07-2025.

JUDGE

JUDGE

Saleem