

# IN THE HIGH COURT OF SINDH, KARACHI

## **Criminal Bail Application No. 2008 of 2024**

<i>Date</i>	<i>Order with signature of Judge</i>
<b>Applicants</b>	: 1. Salman son of Sheram Khan 2. Sultan son of Sheram Khan through Mr. Taj Fareen Khan, Adv.
<b>The State</b>	: through Mr. Khadim Hussain, Addl. Prosecutor General, Sindh along with I.O/SIP Ali Akbar of P.S Gulistan-e- Johar, Karachi.
<b>Date of Hearing</b>	: 10.10.2024
<b>Date of Order</b>	: 10.10.2024

### **ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicants Salman and Sultan seek their release on post arrest bail in Crime No.125 of 2023 registered with P.S Gulistan-e-Johar, Karachi for the offence punishable to Section 324, 337-F(iii) & 34 PPC. The case has been challaned which is now pending for trial before the Court of 4<sup>th</sup> Addl. Sessions Judge, Karachi (East) vide Sessions Case No.562 of 2024 (re-the State Versus Salman and another). The applicants filed anticipatory bail before the trial Court which by means of order dated 02.10.2023 was dismissed. Later, they maintained Criminal Bail Application No.2452 of 2023 before this Court which too was dismissed in terms of order dated 04.03.2024. Since, after dismissal of their pre-arrest bail by this Court, applicants were taken into custody by the I.O; hence, again they have maintained post arrest bail application before the trial Court which too was dismissed through order dated 21.08.2024; hence, this second bail application before this Court.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submits that as per FIR, applicant Sultan allegedly fired upon complainant which hit on to him on his left sacroiliac joint and the injury opined by the MLO to be Shajja-i-Ghayr Jaifah Mutalahimah [337-F(iii) PPC] which carries three years punishment. He next submits that parties are relatives to each other interse as the sister of applicant namely Mst. Nisa was married to complainant Haider Khan and due to matrimonial dispute, their sister Mst. Nisa had filed Family Suit No.337 of 2023 (re-Mst. Nisa Versus Haider Khan) before the Court of Family Judge, Karachi (West) which subsequently was decreed, as prayed. Hence, the complainant was annoyed with them and on said account, he cooked up instant case only to exert illegal pressure upon the applicant so that he may meet with his unjustified demands. He further submits that section 324 PPC is yet to be determined by the trial Court after recording evidence of the prosecution witnesses and at this juncture, case against applicants requires further inquiry. In support of his contention, learned counsel places reliance upon the cases of *MUHAMMAD IRSHAD Versus THE STATE and another (2000 P.Cr.L.J 628)* and *SAEED ULLAH and 2 others Versus The STATE and another (2023 SCMR 1397)*.

4. On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that both accused have been nominated in the FIR with specific role of causing fire arm injuries to injured PW/complainant. He; however could not controvert the fact that there was no repetition of injury; besides, injury allegedly sustained by the injured was opined by the MLO to be punishable under Section 337-F(iii) PPC which carries punishment of three years.

5. The complainant was noticed through jail authorities and Senior Superintendent, Central Prison, Karachi has returned process that complainant has already engaged Mr. Jameel Khoso, Advocate on his behalf; however, inspite of repeated calls, none appeared on his behalf.

6. Heard arguments, record perused. No doubt, the applicants are nominated in the FIR and role attributed to accused Sultan is that he allegedly fired upon complainant which landed on left sacroiliac joint and that being non-vital part of his body has not been declared by the MLO to be detrimental to his life; whereas, role against accused Salman is that he was driving motorcycle. Per I.O present, nothing incriminating including offensive weapon was recovered from accused Sultan. The injury allegedly sustained by the complainant does not show any fracture, as is evident from medical evidence. Besides, the parties, as is evident from the file, are already entangled to each other over a matrimonial dispute of the divorce / khulla obtained by sister of the accused from complainant. The contention raised by learned counsel that due to said grudge, complainant has cooked up instant case, carries weight/force and cannot be brushed aside in *toto*.

7. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *KHALEEL AHMED SOOMRO and others Versus The STATE (PLD 2017 SC 730)*, case against applicants requires further inquiry within meaning of subsection (2) to section 497 Cr.P.C. Consequently, instant Criminal Bail Application is hereby allowed. Applicants **Salman and Sultan, both sons of Sheram Khan** shall be released on bail subject to furnishing their solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousands Only) each and P.R Bond to the satisfaction of learned trial Court.

8. Needless to observe that the observations made hereinabove are tentative in nature and the learned trial Court shall not be prejudiced by any such observations and shall decide the case on merits in view of the evidence available on record.

**JUDGE**

Zulfiqar/P.A