

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.503 of 2025

Applicants : i. Haji Rehman son of Hakeem Khan  
ii. Safi ur Rehman son of Hakeem Khan,  
through Mr. Ghulam Mustafa Kolachi, advocate

Respondent : The State  
Through Ms. Rubina Qadir, DPG.

Date of hearing : 13.05.2025

Date of order : 19.05.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicants Haji Rehman and Safi ur Rehman seek pre-arrest bail in a case bearing Crime No. 490/2024, for offence under section 324/34 PPC registered at P.S: Docks, Karachi. Their earlier bail application was declined by the Court of learned Additional Sessions Judge-II, Karachi West vide order dated 24.02.2025.

2. Briefly, the prosecution case as narrated in the FIR is that on 19.09.2024 at about 1345 hours, complainant Rehan was sitting in his guest room (Baithak) along with his cousin Rafiq and friend Ali Raza when four persons, riding two motorcycles, allegedly arrived and, with a common intention to commit murder, opened fire. As per complainant, one of the bullets fired by the accused hit Ali Raza on his finger and after exiting, struck the complainant on his left leg, resulting in injuries to both. The complainant specifically nominated the accused Haji Rehman @ Guli, and his two brothers Shafi ur Rehman @ Shafi and Wajid all sons of Hakeem Khan, along with an unidentified accused. Consequent upon; case was registered inter-alia on above facts on 29.09.2024.

3. Learned counsel contended that the applicants are innocent and have been falsely implicated in this case due to a prior enmity. He submitted that there is an admitted history of animosity between the parties, as evident from the lodging of earlier FIR No. 405/2024, offence under Section 302 PPC for the murder of the complainant's father and uncle, in which the present applicant was implicated but subsequently admitted to bail by the competent court of law. Immediately after the said bail, the present FIR was registered, which reflects clear mala fide on part of the complainant and an

attempt to misuse the process of law for retaliatory purposes. Learned counsel further contended that the incident, though alleged to be of a serious nature, resulted in injuries on non-vital parts of the body i.e. the finger of PW Ali Raza and the leg of the complainant, which by themselves do not reflect any overt act intending to cause death. He emphasized that medical certificates are of doubtful veracity and the injuries appear to be self-inflicted or fabricated, particularly when viewed in light of the prior grudge. It was further submitted that the FIR was lodged with a delay of nearly twenty-four hours without plausible explanation, which casts serious doubt on the truthfulness of the incident. Moreover, there was no recovery of any empties or crime weapon from the place of occurrence, which undermines the ocular version. In support of the contention regarding the credibility of the witnesses, learned counsel pointed out that PW Ali Raza, cited as an eyewitness in the FIR, has since resiled from his earlier version through a publicly circulated video in which he categorically stated that no such incident took place and that he was coerced by the police and complainant into recording a false statement. Learned counsel further referred to the report submitted by the Investigating Officer under Section 168 Cr.P.C., which explicitly noted that the instant FIR appears to have been lodged with ulterior motive after the accused obtained bail in the earlier FIR. The report further highlighted inconsistencies in the case and suggested that the incident may not have occurred in the manner alleged.

4. Learned DPG appearing on behalf of the State opposed confirmation of interim bail and argued that the allegations levelled in the FIR are serious in nature, involving an armed attack resulting in injuries to two persons. He submitted that the accused are specifically nominated and the injured persons are known to the complainant, thus reducing the possibility of false implication. He, however, conceded that the injuries were not of a life-threatening nature and that the recovery of weapon or empties is yet to be effected. He also did not deny the existence of earlier litigation between the parties and admitted that one of the eyewitnesses, Ali Raza, has since retracted from his earlier statement.

5. From the facts and submissions presented, it appears that there exists prior litigation between the parties, and that the complainant had earlier lodged FIR No. 405/2024 involving the same accused, who was subsequently granted bail. The timing of the present FIR, lodged

immediately after the applicant's release in the earlier case, coupled with the unexplained delay in lodging of the FIR, reasonably brings the bona fides of the complainant into question. The report of the Investigating Officer under Section 168 Cr.P.C. further reinforces the impression of misuse of legal process and creates reasonable suspicion as to the veracity of the prosecution story.

6. Moreover, it is an established principle of criminal jurisprudence that in order to grant pre-arrest bail, the Court must be satisfied that the accused has been falsely implicated due to mala fide or ulterior motive. The Hon'ble Supreme Court in *Rana Muhammad Arshad v. The State* (PLD 2009 SC 427) held that where an accused demonstrates that the prosecution is motivated by enmity or vengeance, or that the law is being abused to harass the accused, pre-arrest bail may be granted to protect such person from unlawful arrest. Similarly, in *Shahzada Qaiser Arfat v. The State* (PLD 2021 SC 708), it was held that the superior courts are not to deny pre-arrest bail merely because it is an extraordinary remedy, but must assess the availability of incriminating evidence linking the accused with the offence.

7. In the instant case, not only is there a dual version, one advanced by the complainant and the other documented by the police investigation, but there is also apparent variation and contradiction in the statements of the prosecution witnesses as per the report u/s 168 Cr.P.C. Such discrepancies create serious doubts regarding the prosecution's case. It is trite law that once doubt is created, the benefit thereof must go to the accused, even at the bail stage.

8. Additionally, both the complainant and the alleged eyewitness Ali Raza are reportedly incarcerated in a separate murder case, and the latter has publicly disowned his role as an eyewitness through a viral video which is also sent for genuineness and authenticity. These facts further discredit the prosecution version and tilt the balance in favour of the applicant, attracting the principles of *further inquiry* as embodied under Section 497(2) Cr.P.C.

9. In view of the above circumstances, the prior enmity, unexplained delay in lodging the FIR, absence of recovery, non-fatal nature of injuries, variation in witness statements, and the dual versions on record this Court is

of the opinion that the applicant has made out a case falling within the purview of further inquiry. Guilt or innocence would be determined after full fledged trial. At this stage, the exaggeration of the facts and false implication cannot be ruled out. Accordingly, the interim pre-arrest bail already granted to the applicants vide order dated 26.02.2025 is hereby confirmed on the same terms and conditions. Accused to cooperate with investigation and join trial.

**J U D G E**