

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Bail Application No. S-257 of 2025

Applicant: Deedar Ali, son of Subhan Ali Khand,
at present confined in Judicial Lockup, Faiz Ganj
Through Mr. Abdul Ghafoor Jiskani, Advocate

Complainant: Gulzar Ahmed
Through Mr. Miandad Chandio, Advocate

The State: Through Mr. Muhammad Raza Katohar, Deputy
Prosecutor General

Date of hearing : August 4, 2025
Date of order: August 8, 2025

O R D E R

KHALID HUSSAIN SHAHANI J:-- Applicant, Deedar Ali, seeks post-arrest bail in a case bearing crime No. 31 of 2025, registered at Police Station Faiz Ganj for offences under Sections 324, 337-F(i), 336, 147, 148, and 149 PPC. This application assails the order dated 08.03.2025, passed by the learned Additional Sessions Judge, Mirwah, whereby the applicant's earlier application for the same relief was dismissed.

2. The prosecution case, in brief, is that the applicant, along with others, formed an unlawful assembly and attacked the complainant party. The specific allegation against the applicant, Deedar Ali, is that he was armed with a dagger and inflicted multiple sharp-edged weapon injuries upon four prosecution witnesses Gulmeer, Gulsher, Kazim Ali, and Abdullah.

3. Mr. Abdul Ghafoor Jiskani, learned counsel for the applicant, submits that the applicant is innocent and has been falsely implicated due to a pre-existing dispute. He argues that the case of the applicant is at par with that of co-accused Subhan Ali, who has been granted pre-arrest bail by the learned trial court; hence, on the principle of consistency, the applicant also deserves the concession of bail. Learned counsel further submits that the applicant himself sustained an injury during the altercation, which, as per the medico-legal certificate, has been declared simple in nature under Section

337-A(i) PPC. This, he contends, points towards a sudden fight and demonstrates that the applicant was not the sole aggressor. To support his contentions, he has placed reliance on PLD 2009 Lahore 312, 2018, PCrLJ 1 2014, 2014 PCrLJ 76, and 2014 YLR 762.

4. Conversely, Mr. Javed Miandad Chandio, learned counsel for the complainant has vehemently opposed this application. He argues that the applicant's role is distinguishable from co-accused, who was alleged to have caused only simple injuries to PW Mst. Umedan. He submits that the applicant is the prime accused who inflicted multiple, grievous injuries on four individuals. He has drawn the court's attention to the medical evidence which shows PW Gulsher sustained five injuries, while PWs Gulmeer and Kazim Ali each sustained an injury opined by the medical officer as *Itlaf-i-Salahiyyat-i-Udw* under Section 336 PPC. Mr. Muhammad Raza Katohar, the learned Deputy Prosecutor General appearing for the State, has adopted the arguments of the complainant's counsel, adding that since the offence under Section 336 PPC falls within the prohibitory clause of Section 497(1) Cr.P.C., the applicant is not entitled to bail. Both have relied upon 2010 PCrLJ 1117, 2024 MLD 27, 2024 PCrLJ 940, 2022 PCrLJ 7, and 2016 YLR 2305.

5. The arguments of the learned counsel for the applicant, while articulated with skill, do not persuade this Court to extend the extraordinary concession of bail. The plea of consistency is misplaced, as the role assigned to the present applicant is specific, severe, and distinct from that of the co-accused Subhan Ali. The record clearly indicates that the applicant is alleged to be the main assailant who caused injuries to four persons. The additional plea that the applicant himself suffered a simple injury does not, at this juncture, mitigate the gravity of the allegations against him. A single, simple injury on the applicant's person pales in comparison to the multiple injuries, including two declared as *Itlaf-i-Salahiyyat-i-Udw* under Section 336 PPC, allegedly inflicted by him upon the complainant party.

6. It is undisputed that the punishment for an offence under Section 336 PPC can extend to ten years, thereby attracting the bar contained in Section 497(1) Cr.P.C. The law is well-settled that bail in such cases is not to be granted as a matter of course but only in exceptional circumstances. The material on record furnishes reasonable grounds to believe that the applicant

is connected with the commission of an offence falling within the prohibitory clause. The learned trial court has already passed a well-reasoned order declining bail, and I find no infirmity or illegality in the said order to warrant interference. The case law cited by the applicant's counsel is not applicable to the particular facts and circumstances of this case.

7. The reliance placed by the learned counsel upon the celebrated judgment of *Ali Muhammad v. The State* (PLD 2009 Lahore 312), while understandable given its significance, is fundamentally misplaced when applied to the distinct factual and legal matrix of the present matter concerning applicant Deedar Ali. The principles enunciated in *Ali Muhammad* establish that in ordinary hurt cases where the ultimate sentence is likely to be limited to monetary compensation in the form of *Arsh* or *Daman*, pre-trial detention is generally unwarranted. This is because Section 337-N(2) of the PPC reserves the optional punishment of imprisonment for specific categories of offenders, such as those who are hardened, desperate, or dangerous. However, the authority itself presumes a certain baseline of facts, and the present case diverges so sharply from that baseline that it falls squarely within the exceptions contemplated by the judgment, rather than its general rule. Case of *Ali Muhammad* (Supra) was characterized by the Honourable Court as a "*run of the mill case of domestic violence*," stemming from an estranged matrimonial relationship. The altercation was a sudden, spur-of-the-moment affair between a husband and his wife, involving a *sota* (stick) that was picked up from the spot. The circumstances lacked the colour of premeditation or organized brutality. The matter of Deedar Ali (present case), on the other hand, paints a far more grim and alarming picture. This is not a simple dispute but an alleged organized attack where the applicant, as part of an unlawful assembly, was armed with a dagger. His aggression was not directed at a single person in a moment of passion but was unleashed upon four different individuals, signifying a higher degree of criminality and dangerousness. This factual divergence directly impacts the legal assessment under Section 337-N(2) PPC. The petitioner in *Ali Muhammad* was found not to possess the credentials of a "*desperate or dangerous criminal*." In stark contrast, the alleged conduct of applicant Deedar Ali methodically inflicting multiple sharp-edged weapon injuries on four persons is the very definition of desperate and dangerous behaviour. The brutality of the act and the

number of victims involved distinguish him from an ordinary offender and place him firmly within the category for whom the legislature has kept the option of a substantive sentence of imprisonment open. Most decisively, a fundamental legal chasm separates the present case from the precedent cited. The injuries allegedly caused by Deedar Ali have attracted Section 336 of the PPC, as the medical evidence tentatively concludes that two of the injuries amount to *Itlaf-i-Salahiyyat-i-Udw*. This offence, being punishable with imprisonment for up to ten years, falls directly within the prohibitory clause of Section 497(1) Cr.P.C. This statutory impediment creates a formidable legal barrier to the grant of bail, a circumstance entirely absent in the *Ali Muhammad* case. Therefore, while the precedent provides invaluable guidance for non-prohibitory hurt cases, it cannot be invoked to bypass the express statutory restrictions that govern the present matter. In conclusion, the case of Deedar Ali is not one of simple hurt but of grievous violence allegedly perpetrated in a manner that demonstrates a dangerous disposition, and it involves an offence that is expressly covered by the prohibitory clause of the bail statute. For these descriptive and legal reasons, the situation is entirely distinguishable from the facts and the ratio decidendi of *Ali Muhammad v. The State*.

8. The cited authority, *Muhammad Asif Nawaz v. Additional Sessions Judge* (2014 PCrLJ 1), is entirely distinguishable from the present matter of Deedar Ali, as the two cases inhabit completely separate legal worlds. The present case is a matter of pure physical violence, an alleged assault with a dagger governed by the general criminal law of the Pakistan Penal Code. In stark contrast, the cited judgment resolves a procedural question in a commercial dispute, holding that a special law, the Financial Institutions Ordinance prevents the police from registering a criminal case for a dishonoured bank cheque under the general law. This core legal principle of a special law overriding a general one has absolutely no application here, as the present case involves no special statute and falls squarely within the jurisdiction of the ordinary criminal courts, not a specialized banking tribunal. Therefore, the precedent is irrelevant as it addresses a financial matter, not the substantive question of bail in a case of violent crime.

9. The case of Ahmad Khan v. The State (2014 P Cr. L J 76) is factually and legally distinguishable from the present matter of Deedar Ali. The primary distinction is that the offence in the present matter, Section 336 of the PPC, falls squarely within the prohibitory clause of Section 497(1) Cr.P.C., creating a strong statutory impediment to bail. This was not the situation in Ahmad Khan, where the injury (Section 337-F(v)) did not attract the prohibitory clause, giving the court wider discretion. Furthermore, the nature of the alleged acts is vastly different. In the cited case, bail was granted partly because the accused fired only a single shot at a non-vital part of the body and did not repeat the act, suggesting a lesser degree of intent. In contrast, the allegation against Deedar Ali is of a more brutal and sustained assault, involving multiple dagger injuries inflicted upon four separate victims. Lastly, the rule of consistency, which was a key reason for granting bail in Ahmad Khan, operates against the applicant in the present matter. The court in the cited case found the petitioner's role to be "at par" with his bailed-out co-accused, whereas here, Deedar Ali's role has been found to be more severe and distinguishable. Therefore, the cited authority, which rests on non-prohibitory grounds and a less severe factual matrix, offers no support to the present applicant's case.

10. For the foregoing reasons, this Criminal Bail Application is found to be devoid of merit and is, accordingly, dismissed. The impugned order of the learned Additional Sessions Judge, Mirwah, is hereby maintained.

11. It is clarified that these observations are tentative in nature and are strictly limited to the assessment of this bail application. They shall not prejudice the rights of either party during the trial.

J U D G E