

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S-16 of 2025

Applicant : Nazir Ahmed son of Illahi Bux Ujjan
Through Mr. Allah Wassayo Ujjan
Advocate

Complainant : Muhammad Saleh s/o Muhammad Ali,
Through Riaz Ali Khaskheli, Advocate

The State : Syed Sardar Ali Shah Rizvi, Additional P.G
for the State

Date of hearing : 28.08.2025
Date of Order : 28.08.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Nazir Ahmed seeks confirmation of the ad-interim pre-arrest bail granted to him by this Court on 08-01-2025 in a case bearing crime No. 204 of 2024 registered at police station Gambat for offence under sections 324, 337-F(ii), 147, 148, 149 & 452, PPC. The applicant had sought pre-arrest bail from the Court of learned Additional Sessions Judge, Mirwah but was declined on 02.11.2024. Aggrieved, he approached this Court, where interim relief was granted.

2. The allegation of the complainant, Muhammad Saleh, is that on 17.10.2024 at about 6:20 a.m., while he along with his cousin Ghulam Murtaza and Nadeem Ali was present at his house, the present applicant along with his co-accused Darvesh, Saleem and certain unidentified companions, armed with pistols, entered the premises. It is alleged that the applicant abused and threatened the complainant and thereafter fired a shot which struck the complainant on his left knee, co-accused Darvesh fired which hit his left thigh, Saleem caused another injury beneath the knee, and an unidentified accused also fired upon him. After sustaining injuries the complainant fell while blood oozed from his wounds, and he was rescued upon hue and cry raised by his relations whereafter the accused decamped.

3. Learned counsel for the applicant argued that he has been falsely implicated owing to village enmity. Stress has been laid on the fact that co-accused Saleem Ahmed, against whom similar allegations were levelled, has already been granted pre-arrest bail by this Court on 23.12.2024; hence the present applicant, standing on the same pedestal, deserves identical treatment under the well-settled rule of consistency. It was further contended that the alleged injuries, though prosecuted under section 324 of the Penal Code, actually fall within section 337-F(iii) as opined by the medical officer, punishable only up to three years, thus taking the case outside the prohibitory clause of section 497, Cr.P.C. The applicant has remained on interim bail without any instance of misuse, absconsion, or interference with the course of justice; investigation is complete, the challan stands submitted, and no further recovery or custodial interrogation is required. Learned counsel supported his arguments by relying upon the dicta laid down in various pronouncements of the Hon'ble Supreme Court, inter alia, PLD 2017 SC 733, wherein emphasis was laid upon the principle that parity of treatment is to be ensured when allegations are of identical nature, and 2020 SCMR 637, where consistent application of the rule of consistency was reiterated.

4. On the other hand, learned counsel for the complainant opposed the prayer. He argued that the role of the present applicant is distinguishable from Saleem Ahmed inasmuch as Nazar Ahmed is the principal assailant who opened direct fire upon the complainant, an ocular account which is fully supported by medical evidence. According to him, the distinction thus created deprives the applicant from seeking benefit of consistency, and the offence of attempted murder under section 324 PPC being striking at the vitals, is not to be lightly dealt with by granting pre-arrest bail.

5. The learned Additional Prosecutor General, however, conceded that the medical evidence describes all injuries as "Jurh-e-Ghayr-e-Jaifah

Mutalahimah”, falling within section 337-F(iii) of the Penal Code with punishment extending only to three years. In the circumstances, the case does not attract the prohibitory clause. He further confirmed that the applicant has not misused the concession of interim bail and is no longer required for investigation. He therefore did not oppose confirmation of bail, particularly in view of the co-accused having already been extended such relief.

After hearing the parties and examining the record, it becomes clear that the allegations against Nazir Ahmed are not materially distinguishable from those against co-accused Saleem Ahmed, who has already been admitted to bail by this Court. The apex Court has repeatedly emphasized that when co-accused stands released on bail on similar footing, courts are to grant the same concession to other accused unless exceptional circumstances exist. In *Muhammad Imran v. State* (PLD 2017 SC 733), the Hon’ble Supreme Court stressed that the rule of consistency must be adhered to in order to avoid discriminatory treatment. Again, in *Riaz Jafar Natiq v. Muhammad Nadeem Dar* (2020 SCMR 637), it was underlined that once benefit of bail is afforded to one accused, parity must follow in respect of others identically placed.

6. As to the prohibitory clause, the material on record establishes that the injuries suffered by the complainant, though prosecuted under section 324 PPC, were individually classified by the medical officer under section 337-F(iii), which carries a maximum sentence of three years. It has long been held by the Honourable Supreme Court, inter alia in *Chaudhry Shujaat Hussain v. State* (PLD 2004 SC 27) and *Samiullah v. Laiq Zada* (2012 SCMR 442), that where the alleged offence does not squarely fall within the prohibitory clause, grant of bail is a rule and refusal an exception, subject of course to misconduct of the accused, tampering of evidence, or likelihood of absconsion, none of which is visible in the present case.

In the circumstances, where investigation is concluded, challan submitted, and the applicant has demonstrated compliance with the terms of interim bail without any misuse, it would be harsh to continue him in jeopardy by withholding the protection of pre-arrest bail. The matter clearly warrants further inquiry as contemplated by section 497(2) Cr.P.C, keeping in view both the classification of injuries and the role of parity with co-accused.

7. For these reasons, the ad-interim pre-arrest bail granted to Nazir Ahmed on 08.01.2025 stands confirmed on the same terms and conditions. It must, however, be clarified that the observations made herein are purely tentative, confined to the disposal of this bail petition, and shall not influence the trial Court in its ultimate determination on merits.

JUDGE