

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-396 of 2025

Applicants : 1) Nisar Ahmed,  
2) Maqsood Ahmed, both sons of  
Abdul Khalique Kalhoru,  
(Now confined at District Prison, Sukkur)  
Through Mr. Khan Muhammad Sangi,  
Advocate

Complainant : Muhammad Awais s/o Abdul Sattar  
Through Mr. Muhammad Yasir Kalhoru,  
Advocate

The State : Mr. Muhammad Raza Katohar, DPG

Date of hearing : 25.08.2025  
Date of order : 29.08.2025

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**KHALID HUSSAIN SHAHANI J:** Applicants Nisar Ahmed and Maqsood Ahmed, seek post arrest bail in a case bearing crime No.77/2023, for offences u/s 114, 324, 504, 337-A(i), 337-F(i) PPC of PS Cantt.

2. The FIR alleges that on 17.12.2023, the complainant Muhammad Awais, along with his brothers Roshan Ali and Imdad Ali, while heading to their land, were intercepted and assaulted by accused Abdul Khalique (armed with a lathi), the applicants Nisar Ahmed (armed with a repeater), Maqsood Ahmed (armed with a lathi), and others. Specific allegations assign Nisar Ahmed, the act of firing with intent to kill Imdad Ali, resulting in firearm injuries, and Maqsood Ahmed hitting the complainant with a lathi causing a fracture. The medical certificates substantiate the presence of firearm and grievous injuries.

3. Learned counsel for applicants argued the case falls under further inquiry per section 497(2) Cr.P.C., given the delayed FIR (five days), absence of nomination in the first police diary entry, and an admitted land dispute. The existence of a counter FIR (No.73/2023) on behalf of the accused, concerning the same incident, was presented as evidence that the complainant party may be

the aggressor. It was further stressed that the firearm injury caused by Nisar Ahmed was to a non-vital part, undermining any intent to commit qatl-i-amd.

4. On the issue of bail, the counsel cited and relied on several Supreme Court and High Court authorities including, 2003 SCMR 1243 reaffirms that if record creates genuine doubt about involvement, the benefit of doubt accrues at the bail stage even in non-bailable offences. 2022 SCMR 1271 supports the grant of pre-arrest bail even in prohibitory cases if mala fide or further inquiry is established, particularly where trial delay or counter-version exists. PLD 2017 SC 730 emphasizes the constitutional right to liberty and lays down that bail is the rule and incarceration is the exception, particularly for under-trial persons with no antecedents and protracted trial. 2023 SCMR 330 holds that existence of plausible counter-version, cross-FIR, or acknowledged dispute tends to bring the case within the mischief of further inquiry. 2005 SCMR 1899 clarifies that bail is permissible if reasonable ground for further inquiry is established, distinguishing between tests for pre-arrest and post-arrest bail. 2024 YLR 2084 reiterates that in cases of doubt, delay, counter allegations, and absent mala fide, bail may be granted even in offences carrying serious punishment.

5. Conversely, learned DPG for the State, duly assisted by the complainant's counsel, refuted the applicants' claims, submitting that the applicants are specifically named with assigned roles supported by injured eyewitnesses as well as contemporaneous medical evidence. Both sides addressed the extensive bail litigation history: initial refusal of bail by the Sessions Court on merits, dismissal of pre-arrest bail by this Court (Criminal Bail Application S-93/2024) on 15.04.2024 where all major arguments including those of delay, counter-FIR, and civil proceedings were adjudicated and found unpersuasive, followed by the Supreme Court's non-interference in Crl. Petition No.80-K/2024, and subsequent dismissal of post-arrest bail by the

learned Additional Sessions Judge, Pano Aqil. It was insisted that there is no fresh ground nor has any material change occurred since the repeated refusals.

6. Examining the case law cited by applicant's counsel, this Court acknowledges that each forms a cornerstone in Criminal jurisprudence, 2003 SCMR 1243 and 2022 SCMR 1271 indeed protect the principle that doubt even at the bail stage must favor the accused, and where reasonable grounds for further inquiry exist, bail can be granted. However, in the circumstances of the present case, both applicants are directly implicated with overt acts causing firearm and grievous injuries, supported by unimpeached medical and ocular account. No subsisting doubt or inconclusive linkage is on record. PLD 2017 SC 730 does enshrine 'bail not jail,' especially for persons not habitually convicted or where incarceration is excessive. Here, however, trial delay is not of such magnitude and in part attributable to the accused's own actions, and prior bail refusals have consistently cited the serious nature of allegations 2023 SCMR 330 relates to cases of plausible counter-version/cross-FIRs requiring further inquiry. In the instant matter, the purported counter-FIR differs as regards time and character of injuries involved, as already judicially determined at all forums. The narrative presented by the applicants does not create the necessary ambiguity. 2005 SCMR 1899 and 2024 YLR 2084 are most beneficial in situations where doubt, lack of clear attribution, or malafide is evident from the record, none of which arise in the present facts given the presence of direct, corroborated evidence and an unimpeached investigative chain.

7. This Court is further supported in its view by the continued application of the established jurisprudence that after the refusal of pre-arrest and post-arrest bail on merit at all levels including directions to surrender before the trial court from the Supreme Court a subsequent application must present a fresh ground or material change in circumstances. The applicants have not

advanced any such basis; instead, they rely upon arguments and authorities previously canvassed and conclusively decided. It is therefore determined that no reasonable ground for further inquiry exists. The direct implication and assigned roles of the applicants, corroborated by medical and witness testimony, outweigh considerations of delayed FIR and the so-called counter-version. The judgments cited, though forming enduring legal doctrine, are factually distinguishable and inapplicable on the present record.

8. For the foregoing reasons, the application for post-arrest bail filed by Nisar Ahmed and Maqsood Ahmed is dismissed. These findings are tentative and shall not prejudice the trial Court in its proceedings.

**JUDGE**