

**HIGH COURT OF SINDH CIRCUIT COURT, MIRPURKHAS**  
**Crl. Bail Application No.S-288 of 2024**

Applicant/ accused:            Muhammad Taha s/o Jan-ur-Rehman @ Jani  
Through Mr. Asif Choudhry advocate.

The State:                        Through, Mr. Shahzado Saleem Nahiyoan,  
Additional P.G.

Complainant:                  Faiz Muhammad s/o Muhammad Hussain  
Through Mr. Rao Faisal Ali advocate

Date of hearing:                10.06.2025

Date of Order:                  10.06.2025

**ORDER.**

**Jan Ali Junejo, J.** – The applicant/accused Muhammad Taha has filed the instant Criminal Bail Application under Section 498 Cr.P.C seeking confirmation of pre-arrest bail previously granted to him by this Court vide order dated 14.11.2024, in Crime No. 169/2024 registered at Police Station Satellite Town, Mirpurkhas for offences under Sections 324, 447, 337-H(ii), 337-A(i), 337-F(i), 504, 34 PPC. His earlier bail plea was dismissed by the learned Additional Sessions Judge-I, Mirpurkhas, vide Order dated: 08.11.2024.

2.        The prosecution’s case emanates from a First Information Report (FIR) lodged by Faiz Muhammad, the complainant. In his FIR, Faiz Muhammad alleged that his neighbor, Jan-ur-Rehman alias Jani Pathan, and his sons, Muhammad Taha and Zaryab, attempted to unlawfully encroach upon the public street situated in front of his residential house and commercial shops. Despite previous warnings and interventions by the police, the accused individuals persisted in their efforts to encroach on the street. On October 25, 2024, they proceeded to block the street, prompting Faiz Muhammad and his friends, Basit Ali Shaikh Siddiqui and Zeeshan Kunbhar, to confront them. The confrontation escalated into violence when Muhammad Taha assaulted Faiz Muhammad on the wrist with an iron rod, and Zaryab fired a pistol shot in the air. Fortunately, Faiz

Muhammad was rescued by his friends, who intervened to prevent further harm. Subsequently, he received medical treatment at civil hospital for the injuries sustained during the altercation. Frustrated by the lack of effective redress and resolution, Faiz Muhammad lodged the FIR, accusing the accused individuals of attempting to murder him and seeking justice through the legal process.

3. Learned counsel for the applicant contended that Applicant has been falsely implicated in the case due to a long-standing dispute over a street, which motivated the complainant to act with mala fide intent. He highlighted that the FIR was lodged with an unexplained delay of five days, which casts serious doubt on the credibility of the allegations. He submitted that the applicant is a young and indigent individual with no prior criminal record. It was further argued that Section 324 PPC has been wrongly invoked in the FIR to exaggerate the gravity of the offence, whereas the remaining sections do not fall within the prohibitory clause of Section 497(1) Cr.P.C. Counsel also submitted that the medico-legal certificate issued in respect of the alleged injury has been challenged before the Special Medical Board. Notably, the said Board has kept the certificate in abeyance until the appearance of the injured person, who has not been produced by the police despite multiple opportunities. These developments, he argued, significantly weaken the prosecution's stance and clearly bring the matter within the purview of "further inquiry" as contemplated under Section 497(2) Cr.P.C. He therefore prayed that the concession of pre-arrest bail already granted to the applicant be confirmed.

4. Conversely, learned counsel for the complainant, with the support of the learned Additional Prosecutor General, vehemently opposed the confirmation of bail. They maintained that the applicant is specifically named in the FIR and is directly attributed with inflicting a grievous injury on the complainant. They argued that the applicant intentionally struck the complainant with an iron rod

aiming at his head; however, the blow landed on the complainant's hand as he raised it in defense. This injury was medically classified under Section 337-F(vi) PPC, reflecting its seriousness and the deliberate nature of the act. It was further submitted that the ocular account of the incident is supported by the statements of prosecution witnesses, all of which consistently corroborate the complainant's version. They also contended that the delay in lodging the FIR is sufficiently explained, given the complainant's immediate pursuit of medical treatment. The offence, in their view, falls within the prohibitory clause of Section 497(1) Cr.P.C due to the nature of the injury and the circumstances of the attack. They additionally alleged that after securing interim bail, the applicant misused the concession by engaging in aerial firing to intimidate the complainant. In light of the above, they prayed for the dismissal of the bail application, stressing the seriousness of the charges and the strength of the prosecution's case.

5. I have heard the arguments advanced by the learned counsel for the applicant, the learned counsel for the complainant, and the learned Additional Prosecutor General for the State. I have also perused the material available on record and undertaken a tentative assessment, as is permissible at the bail stage under the settled principles of law. Admittedly, there exists a prior dispute between the parties over the alleged encroachment of a public street, which is a key factor in assessing the background and motive behind the FIR. The FIR, though alleging a serious offence, was lodged with a delay of five days, without any convincing explanation, despite the proximity of the police station and the complainant's claimed immediate medical treatment. Such delay inherently casts doubt on the spontaneity and credibility of the version put forth in the FIR. The role ascribed to the applicant is limited to a single act of striking the complainant with an iron rod. Notably, the injury resulting from this act was confined to the complainant's hand and did not affect any vital part of the body. Furthermore, there is no allegation that the applicant repeated the blow or continued the

assault beyond this solitary instance. Although the prosecution initially invoked Section 324 P.P.C. (attempt to commit murder), it is significant to note that this provision was subsequently deleted from the final charge sheet, and the said deletion was duly accepted by the learned Judicial Magistrate, indicating a lack of sufficient material to substantiate the element of intent required under that section. This indicates that the investigating agency and the prosecution themselves no longer believe that the element of intention to commit murder, essential for Section 324 PPC, is supported by the evidence. In similar circumstances, the Honourable Supreme Court of Pakistan, in the case of ***Ali Raza v. The State and others (2022 SCMR 1245)***, held that: “*It is also an admitted position that the petitioner fired only single shot at the non-vital part i.e. wrist of the injured PW and had not repeated the same despite having ample opportunity to do so, which shows that perhaps the petitioner had no intention to kill the injured PW*”. Reference may also be made to the principle enunciated by the Honourable Supreme Court of Pakistan in the case of ***Jamaluddin and another v. The State (2023 SCMR 1243)***.

6. Further, the injury was declared by the Medical Officer to fall under Section 337-F(vi) PPC. However, the validity of the medico-legal certificate was challenged and subsequently suspended by the Special Medical Board constituted for re-evaluation vide Order No. CS/HYD/(Injured No.4449)-1195/1202 dated 09.01.2025. Despite three meetings of the Special Medical Board held on 11.12.2024, 08.01.2025, and 22.01.2025, the police failed to produce the injured for re-examination, frustrating the process and weakening the evidentiary foundation of the prosecution’s medical claim. The suspension of the medico-legal certificate (vide Order No. CS/HYD/(Injured No.4449)/-3193/99 dated 25.01.2025) further diminishes the reliability of the medical evidence that is central to the prosecution’s case. It is also relevant to observe that the charge has already been framed, indicating that the investigation is complete and custodial

interrogation of the applicant is no longer required. In view of the above facts and circumstances, the case of the applicant is one of further inquiry within the meaning of Section 497(2) Cr.P.C., as the available material does not establish reasonable grounds to believe that the applicant committed a non-bailable offence under the now-deleted Section 324 PPC. The applicability of Section 337-F(vi) P.P.C. remains to be conclusively determined by the Special Medical Board, and the remaining offences are bailable in nature. Moreover, the allegation of misuse of interim bail through aerial firing is not supported by any material on record and appears to be an unsubstantiated assertion raised belatedly during arguments.

7. In light of the foregoing considerations, the interim pre-arrest bail granted to the Applicant/accused Muhammad Taha under Order dated 14-11-2024 is hereby confirmed, subject to the original terms and conditions. It is expressly clarified that all observations contained herein are tentative in nature, intended solely for the disposition of the present matter, and shall not prejudice the rights or contentions of either party during trial proceedings.

**JUDGE**

*\*Saleem\**