

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2932 of 2025

Applicant:	Pir Bux son of Ladho through Mr.Saddam Hussain, Advocate
Complainant:	Shamshad Ali through Mr. Shahzad Mehmood, Advocate.
Respondent:	The State through Mr. Muhammad Noonari, Deputy P. G. Sindh
Date of hearing:	02.02.2026
Date of order:	02.02.2026

ORDER

TASNEEM SULTANA, J.— Through this post-arrest bail application, the applicants Pir Bux and Mir Hassan seek the concession of bail in Crime No.189 of 2024 registered at Police Station Makli, District Thatta, under Sections 324, 337-A(i), 337-A(ii), 114 and 34 P.P.C. Having been rejected their post-arrest bail application in Sessions Case No. 45 of 2025, passed by the learned Additional Sessions Judge-I, Thatta, vide order dated 12.08.2025, whereafter the present application has been filed for the same concession.

2. The brief facts of the prosecution case, are that the complainant Shamshad Ali reported that due to a land dispute between the parties, on 18.11.2024 at about 09:00 p.m., while he along with his maternal uncle Ghulam Hussain and cousin Ali Murad was present at their land, the accused Mir Hassan and Pir Bux armed with hatchets and Gul Hassan armed with a lathi arrived at the spot, abused them and directed them to vacate the land; that upon intervention by the injured, Gul Hassan allegedly instigated the other accused, whereupon Mir Hassan allegedly caused hatchet blows to the head of Ghulam Hussain, due to which he fell down; that thereafter Gul Hassan allegedly caused lathi blows to the complainant and the injured; and that on seeing the injured in serious condition, the accused fled away. The injured was shifted to the police station for obtaining treatment letter and thereafter to Civil Hospital Makli. Hence this FIR.

3. Learned counsel for the applicants contends that the applicants have been falsely implicated with malafide intention and ulterior motive; that the FIR itself reflects admitted enmity between the parties; that there is delay in

lodging the FIR despite availability of the police station at a short distance; that the prosecution case rests upon interested witnesses related to the complainant and no independent witness has been associated; that the applicants did not cause any fatal injury; that as per the medico-legal certificate the injuries are shown to have been caused by a hard and blunt substance, whereas, according to the FIR, the accused persons are alleged to have inflicted axe (hatchet) blows; that the charge sheet has already been submitted and the applicants are no more required for investigation; that the applicants are local residents with no likelihood of absconcence; and that continued incarceration would serve no useful purpose.

4. Per contra, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, vehemently opposes the application and submits that the applicants are specifically nominated in the FIR with specific roles; that the injured and eyewitnesses have supported the prosecution version; that the medico-legal certificate shows multiple injuries including injuries on vital part; that I/O secured photograph which clearly reflects that as many as twelve stitches were applied on the forehead of the injured Ghulam Hussain, when viewed in the light of the manner of assault alleged in the FIR, *prima facie* reflects the seriousness of the attack and the intention of the assailants. It was further argued that the accused persons came to the place of occurrence duly armed pursuant to a pre-existing land dispute; that the presence of the injured and eyewitnesses at the spot is natural; that their statements are consistent and supportive of the prosecution version; and that mere existence of a land dispute does not dilute the criminality of the act. In these circumstances, it was contended that the case does not fall within the ambit of further inquiry and that the concession of bail is not warranted.

5. Heard. Record perused

6. A tentative assessment of the record reflects that the allegations levelled against the present applicants pertain to the infliction of direct axe (hatchet) blows upon the head of the injured Ghulam Hussain. However, the medico-legal certificate issued by the medical officer describes the injuries as having been caused by a hard and blunt substance. At this stage, the medical opinion does not *prima facie* appear to be in complete consonance with the manner of assault alleged in the FIR. Whether the injuries could have been caused in the manner alleged, whether the nature of the weapon and the mode of infliction reconcile with the medical findings, and what legal effect is to be given to such apparent inconsistency, are matters which require reconciliation through evidence and cannot be conclusively

determined at the bail stage without embarking upon a deeper appreciation of evidence, which is impermissible.

7. It further appears that the incident has arisen out of a land dispute between the parties, as reflected in the FIR itself. The challan has already been submitted and the applicants are no longer required for investigation. The exact role attributed to each accused, the nature of intention, and the effect of the medical evidence are questions which shall ultimately be determined by the learned trial Court after recording evidence.

8. Further, the record reflects that the injury sustained on the head, which allegedly affected a vital part, was medically declared as Shajjah Khafifah, attracting Section 337-A(i) PPC, which is bailable in nature. As for the remaining injuries, they are located on non-vital parts of the body and, notably, one of them falls under Section 337-A(II) P.P.C., which is non bailable but does not fall under the prohibitory clause of Section 497(1) Cr.P.C., as the maximum punishment prescribed is five years. In such circumstances, where the offence does not fall under the prohibitory clause, the case becomes one of further inquiry. Support in this regard is drawn from the case of Muhammad Ijaz vs. The State and another (2022 SCMR 1271), wherein the Honourable Supreme Court held:

"...The offence under section 337-A(i), P.P.C. is bailable in nature whereas the offence under section 337-F(vi), P.P.C. does not fall within the prohibitory clause of section 497, Cr.P.C. In these circumstances, a *prima facie* doubt has arisen qua the authenticity of the prosecution's case. It has been held by this Court from time to time that benefit of doubt, if established, can be extended even at bail stage. Reliance is placed on Samiullah v. Laiqzada (2020 SCMR 1115) and Muhammad Faisal v. The State (2020 SCMR 971). All these circumstances conjointly persuade us to hold that the case of the petitioner squarely falls within the purview of section 497(2), Cr.P.C. entitling for further inquiry into his guilt and it is the Trial Court who after recording of evidence would decide about the guilt or otherwise of the petitioner."

9. In view of the foregoing facts and circumstances, the present applicants have made out a case for grant of bail, as his case falls within the purview of further inquiry under Section 497(2) Cr.P.C. Accordingly, the bail application is allowed. The applicant is admitted to bail subject to his furnishing a solvent surety in the sum of Rs.50,000/- each (Rupees Fifty Thousand) and a personal bond in the like amount to the satisfaction of the learned trial court.

10. Needless to mention, the observations made hereinabove are tentative in nature and shall not influence the learned trial court in any manner. The trial court shall decide the case strictly on its own merits based on the evidence and material brought before it during the trial.

JUDGE