

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1389 of 2025

Applicant: Tahir Khan son of Ameen Shah
through Mr. Muhammad Ibrahim Abro, Advocate

Respondents: The State through Mr. Mohammad Noonari,
Deputy Prosecutor General Sindh.

Date of hearing : 04.02.2026

Date of order : 04.02.2026

ORDER

TASNEEM SULTANA, J : - The applicant Tahir Khan seeks pre-arrest bail in crime No.112/2025, for the offence punishable under Sections 324, 34 PPC. registered at P.S. Jackson, Keamari. Earlier, his pre-arrest bail application was declined by the learned Additional Sessions Judge-XI, Karachi West vide order dated 21-05-2025, while co-accused Abdul Hadi and Dilawar Khan were admitted to bail, hence the present application for same concession.

2. Brief facts of the prosecution case, is that the complainant Agha Khan reported that due to a prior quarrel between the children of the parties, dispute had arisen between them and earlier altercations had taken place; on 25-03-2025 after Maghrib prayers, both sides assembled at Muhammadi Mosque, Gulshan-e-Sikandarabad, at the intervention of community elders, Mufti and Imam, for purposes of reconciliation; the complainant along with his companions, including his brother Khalid and brother-in-law Abdul Razzaq, attended the proceedings where the accused persons also arrived; during the course of negotiations, altercation ensued and co-accused allegedly started manhandling the complainant party, while accused Tahir, stated to be armed with a pistol, resorted to straight firing with intention to kill, as a result whereof the complainant sustained firearm injury on his right leg while the other injured Khalid received firearm injuries on both legs; both injured were shifted to hospital for medical treatment, whereafter the FIR was registered.

3. Learned counsel for the applicant contended; that the applicant is innocent and has been falsely implicated due to prior enmity; that co-accused have already been granted pre-arrest bail on identical allegations; that the role attributed is exaggerated; that no weapon has been recovered;

that the incident allegedly took place inside a mosque yet no independent witness has been cited; that the complainant party itself is involved in criminal activities and had earlier attacked the accused side; that medical evidence does not conclusively connect the applicant; that the case calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

4. Conversely, learned D.P.G. opposed the application and submitted; that the applicant is specifically nominated in the FIR with a distinct role of firing; that two persons sustained firearm injuries attributed to the applicant; that medical evidence supports the ocular account; that empties were secured from the place of incident and crime marks were found at the site; that the weapon could not be recovered due to protective bail; that the role of the present applicant is distinguishable from the co-accused already admitted to bail; therefore, no case for extraordinary relief of pre-arrest bail is made out.

5. Heard. Record perused.

6. Tentative assessment of the material available on record reflects that the genesis of the occurrence admittedly emanates from a trivial dispute between the children of the parties; significantly, both sides had assembled at the mosque on 25-03-2025 for purposes of reconciliation through community intervention, thus the presence of the parties at the venue, prima facie, does not appear to be pursuant to any pre-planned design but within the context of compromise proceedings; the incident appears to have erupted during the course of heated exchange while negotiations were underway.

7. The medical evidence, examined in juxtaposition, reflects that the complainant Agha Khan sustained firearm injury on the foot which, as per final medico-legal opinion, remained confined to soft tissue and has been classified as simple hurt, while the other injured Khalid received firearm injuries on non-vital limbs; the nature, seat and classification of injuries, therefore, tentatively dilute the inference of lethal intention at this stage and bring the case within the sphere of further inquiry.

8. In somewhat similar circumstances, the Honourable Supreme Court of Pakistan in case of ***Ali Raza v. The State and others (2022 SCMR 1245)*** was seized of a matter wherein the accused had fired a single shot which landed on a non-vital part of the injured's body and the fire was not repeated despite availability of opportunity; the august Court observed that the seat of injury and non-repetition of firing rendered the question of intention to commit qatl-i-amd debatable and held that such circumstance attracted the

principle of further inquiry. Likewise, in case of ***Jamaluddin and another v. The State (2023 SCMR 1243)*** it has been held that where firearm injuries are sustained on non-vital parts and firing is not repeated, the applicability of Section 324 PPC, particularly the element of intention, becomes a matter to be determined after recording of evidence at trial.

9. Applying the ratio of the aforesaid precedents to the facts of the present case, it emerges that the injuries attributed to both injured persons are on non-vital limbs; the complainant's injury stands declared simple in nature; firing is alleged to have been made during a sudden altercation arising in reconciliation proceedings; and the precise degree of mens rea, whether amounting to attempt to commit murder or otherwise, requires deeper probe which can only be undertaken after recording of evidence at trial. At this stage, only a tentative assessment is permissible. The background of sudden quarrel, setting of reconciliation, absence of recovery of weapon, and bail granted to co-accused attributed participation in the same occurrence, cumulatively create a case requiring further probe.

10. In these circumstances, the applicant has succeeded in making out a case for confirmation of pre-arrest bail. Consequently, the instant pre-arrest bail application is allowed and interim pre-arrest bail granted to the applicant vide order dated 27-05-2025 is hereby confirmed on the same terms and conditions.

11. The observations made hereinabove are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

JUDGE