

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2749 of 2025

Applicant : Muhammad Arif Butt through Mr. Sikandar Khan, Advocate

Complainant : Mushtaq Hussain Butt through Mr. Jamil Ahmed Virk, Advocate.

Respondents : The State through Mr. Mumtaz Ali Shah, Asstt. P. G. Sindh.

Date of hearing : 10.02.2026

Date of order : 10.02.2026

ORDER

TASNEEM SULTANA, J.— Through this criminal bail application, the applicant namely Muhammad Arif Butt S/o Muhammad Bashir seeks pre-arrest bail in Crime No.45 of 2009 for the offences under Sections 324/34 PPC, registered at P.S. Chakiwara, Karachi. Earlier, the applicant approached the learned IIIrd Additional Sessions Judge, Karachi South, for the same relief, however, his bail before arrest application was declined vide order dated 02-10-2025; hence, the instant application.

2. Brief facts of the prosecution case, as narrated in the FIR, are that the complainant Mushtaq Hussain Butt disclosed that he is driver by profession and resides at the mentioned address; about two months prior to the incident his wife, along with children, went to her parents' house situated at UBL Street, Gulistan Colony, Lyari; he contacted his father-in-law who asked him to come on Sunday; on 22-02-2009 at about 09:15 p.m., he went to his in-laws' house to bring his wife back; his mother-in-law, brother-in-law Arif, Waris and others were present; upon his asking his wife to accompany him, his brother-in-law Arif insisted that he should keep his wife separately; upon his expressing financial inability, hot words were exchanged; thereafter Arif allegedly took out a knife (churi), threatened to kill him, and along with co-accused Waris started beating him; Arif inflicted knife blows on his neck, head and cheek with intention to kill; resultantly he sustained injuries and blood started oozing; he raised hue and cry, ran outside, whereupon area people rescued him; thereafter he, along with relatives, went to the police station and lodged the FIR for legal action.

3. It appears from the record that prior to the present proceedings, the applicant had earlier approached this Court as well as the learned trial Court seeking similar relief. The record reflects that the applicant was granted bail by this Court in Criminal Bail Application No.1845 of 2017 vide order dated 28.11.2017; however, after availing such concession, he failed to regularly appear before the learned trial Court, which ultimately resulted in dismissal of his bail on account of non-appearance vide order dated 10.08.2018. Consequent upon his continued absence, coercive process was initiated by the learned trial Court and proceedings under Sections 87 and 88 Cr.P.C. were set into motion, culminating in his declaration as a proclaimed offender. It further transpires that during trial proceedings, the co-accused namely Waris was acquitted on the basis of compromise under Section 345(6) Cr.P.C. vide order dated 13.02.2014 passed by the learned IIIrd Additional Sessions Judge, Karachi South, whereas the case against the present applicant, being absconding, was ordered to be kept on dormant file till his arrest and production before the Court. Thereafter, upon his return to Pakistan, the applicant again approached the learned IIIrd Additional Sessions Judge, Karachi South, through Criminal Bail Before Arrest Application No.2867 of 2025, wherein interim pre-arrest bail was granted vide order dated 19-08-2025, but the same was not confirmed and his bail before arrest application was dismissed vide order dated 30.09.2025. Subsequently, the applicant again sought pre-arrest bail which too came to be declined vide order dated 02.10.2025, leading to the filing of the instant bail application before this Court.

4. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case on account of matrimonial and domestic discord; that the complainant is his close relative and the occurrence admittedly took place inside the house of in-laws during a sudden altercation over the issue of separate residence and financial constraints; that the prosecution story does not disclose any premeditation or prior design; that no independent witness from the locality has been associated despite the allegation that area people gathered and rescued the complainant; that the ocular account is thus interested and requires strict scrutiny; that the medical evidence does not support the allegation of intention to commit qatl-i-amd inasmuch as the injuries are simple in nature and do not correspond with the alleged manner of assault; that the weapon of offence has neither been secured from the applicant nor subjected to forensic examination; that the co-accused has already been acquitted on the basis of compromise, which reflects the private and family nature of

dispute; that the applicant had earlier approached the Courts and had been granted protective relief; that his subsequent non-appearance was neither deliberate nor willful but due to his foreign travel for livelihood and to attend his ailing father; that upon return he approached the Court and submitted himself to the jurisdiction of law; that he has joined proceedings pursuant to interim pre-arrest bail and has not misused the concession; that no recovery is to be effected and custodial interrogation is not required; that the arrest of the applicant at this stage would be actuated by mala fide and ulterior motives at the instance of the complainant; that the case, in the peculiar facts, calls for further inquiry within the meaning of Section 497(2) Cr.P.C.; prayed for confirmation of pre-arrest bail.

5. Learned APG, assisted through learned counsel for the complainant, vehemently opposed the application; contended that the applicant is specifically nominated in the FIR with a direct and active role of inflicting knife blows upon the complainant; that the weapon used was a sharp-edged knife and injuries were caused on vital parts of the body including neck and head, clearly reflecting intention to commit qatl-i-amd; that the ocular account is supported by medical evidence; that the plea of matrimonial dispute does not mitigate the gravity of offence; that the co-accused's acquittal on compromise does not extend benefit to the present applicant who is attributed a distinct role; that the applicant remained absconding for a considerable period; that proceedings under Sections 87 and 88 Cr.P.C. were initiated and he was declared a proclaimed offender; that such conduct disentitles him from extraordinary relief of pre-arrest bail; prayed for dismissal of the application.

6. Heard. Record perused .

7. Tentative assessment of the material available on record reflects that the occurrence admittedly arose out of a domestic and matrimonial dispute between closely related parties when the complainant had gone to the house of his in-laws to take back his wife. The background circumstances show exchange over separate residence and financial constraints, which prima facie suggests a sudden quarrel without premeditation. Whether the injuries were inflicted with the requisite intention attracting Section 324 PPC or otherwise is a matter requiring deeper appreciation of evidence at trial.

8. So far as the question of absconsion is concerned, the record prima facie reflects that the applicant remained out of the process of law for a considerable period; proceedings under Sections 87 and 88 Cr.P.C. were initiated and he was declared a proclaimed offender. Such conduct, ordinarily, disentitles an accused from seeking the extraordinary relief of

pre-arrest bail. However, the legal effect of absconsion is to be examined in juxtaposition with the totality of circumstances. The explanation furnished by the applicant regarding his foreign travel and family exigencies, followed by his subsequent appearance before the Court and joining of proceedings pursuant to interim protection, prima facie mitigates the rigour attached to his earlier non-appearance. No misuse of concession after grant of interim pre-arrest bail has been pointed out.

9. It is further observed that the nature, seat and medico-legal classification of injuries, as reflected from the Medico-Legal Certificate, do not prima facie correspond with the penal severity envisaged under Section 324 PPC. The injuries have been opined to be simple in nature and none has been declared dangerous to life. In medico-legal jurisprudence, the punishment attached to such injury classification carries lesser penal consequences, thereby requiring deeper appreciation of evidence to determine whether the ingredients attracting the higher penal provision invoked in the FIR are made out or a lesser offence is constituted. At this tentative stage, the applicability of Section 324 PPC thus appears doubtful, which further fortifies the plea of further inquiry raised on behalf of the applicant; resultantly, grant of bail in such like offences is a rule and refusal thereof is an exception. In case titled *Muhammad Tanveer v. The State and another* reported as **PLD 2017 SC 733**, the august Supreme Court has held as under: -

“Once this Court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497, Cr.P.C. shall be a rule and refusal shall be an exception then, the Courts of the country should follow this principle in its letter and spirit because principles of law enunciated by this Court are constitutionally binding on all Courts throughout the country including the Special Tribunals and Special Courts.”

Similarly, in case titled *Tariq Bashir and 05 others v. The State* reported as **PLD 1995 SC 34**, the august Supreme Court has also affirmed the same rationale by observing that:-

“That grant of bail in offences punishable with imprisonment for less than ten years is a rule and refusal is an exception, which are missing in the present case.”

11. It is also significant that the occurrence arises out of a family dispute; the co-accused stands acquitted on the basis of compromise; no independent witness from the locality has been cited despite the allegation of rescue; and the question of intention, seat of injuries and manner of assault would be determined after recording evidence at trial.

12. In view of the above circumstances, the applicant has made out a case for confirmation of pre-arrest bail. Consequently, the instant bail before arrest application is allowed and interim pre-arrest bail earlier granted on 10.10.2025 was confirmed on same terms and conditions.

13. Needless to observe that the observations made herein are tentative in nature and shall not influence the trial in any manner.

JUDGE

Nadeem