

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2740 of 2025

Applicants : Muhammad Faizan & Hafiz Muhammad Sufiyan through Mr. Waqar Alam Abbasi, Advocate.

Complainant : Azhar Khan through Hafiz Danish Iqbal Memon, Advocate.

Respondent No.4 : The State through Ms. Rubina Qadir, Additional Prosecutor General Sindh.

Date of hearing : 29.01.2026

Date of announcement of order : .04.2026

ORDER

TASNEEM SULTANA, J.— Through this Criminal Bail Application, the applicants Muhammad Faizan and Hafiz Muhammad Sufiyan seek pre-arrest bail in Crime No.395 of 2025 registered under Sections 324/34 PPC at Police Station Pak Colony, Karachi West. Earlier their pre-arrest Bail Application No.4924 of 2025 was declined by the learned Additional Sessions Judge - II, Karachi West, vide order dated 07.10.2025; hence, this application for same concession.

2. Brief facts of the prosecution case, are that on 20.09.2025 at about 07:00 p.m., the complainant was present at his shop when two unknown persons, riding a motorcycle with their faces covered, allegedly arrived, abused him, and stated that they had been sent by "Bhai" and asked him to withdraw from custody proceedings of his children; thereafter, one of them allegedly made a firearm shot causing injury on his leg, and while fleeing, they extended threats of dire consequences. It was further alleged that prior to the occurrence, the present applicants, being brothers of his ex-wife, had also extended threats to him in connection with such custody dispute.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to mala fide intent and ulterior motives; that no role of firing or presence at the place of occurrence has been attributed to them; that their names have surfaced merely on the basis of alleged prior threats arising out of a dispute between the complainant and his ex-wife regarding custody of minor children; that the principal allegation is against unknown persons; that no material has been

collected connecting the applicants with the occurrence; that the CCTV footage has neither been properly produced nor does it identify the applicants; that the forensic report does not connect the applicants with the offence; and that the case falls within the ambit of further inquiry; hence, the interim pre-arrest bail may be confirmed.

4. Conversely, learned Additional Prosecutor General, assisted by learned counsel for the complainant, opposed the application and contended that the applicants are nominated with specific allegation of threats which led to the occurrence; that sufficient material has been collected during investigation; and that the offence falls within the prohibitory clause; therefore, the applicants are not entitled to the concession of pre-arrest bail.

5. Heard. Record perused.

6. The allegation against the present applicants is that they had allegedly extended threats to the complainant to withdraw from the proceedings relating to custody of minor children, which are pending between the complainant and his ex-wife, who is the sister of the present applicants, and that the subsequent occurrence of firing by unknown persons is alleged to have been carried out at their instance. The statement of the complainant recorded under Section 161 Cr.P.C., as available on record, is in line with the version set out in the FIR and does not attribute any overt act of firing or presence at the place of occurrence to the present applicants. It further reflects from the record that the involvement of the applicants has been surfaced on account of the alleged threats; however, no material has been brought on record prima facie demonstrating their presence at the scene of occurrence or their participation in or facilitation of the alleged offence.

7. In view thereof, when the principal role of firing is attributed to unknown persons and the material available on record does not prima facie establish a direct connection of the applicants with the occurrence, the case of the applicants, at this stage, falls within the ambit of further inquiry within the meaning of Section 497(2) Cr.P.C. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail as of right. Reliance is placed on the case of **Salman Mushtaq & others v. The State through P.G Punjab and another (2024 SCMR 14)** wherein Hon' ble Supreme Court has held as under: -

“6. ……………While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not,

by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....”

8. In view of the above circumstances, the applicants have 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 is confirmed on same terms and conditions.

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

JUDGE