

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2799 & 2809 of 2025

Applicants : Hafeez, Wasiullah and Abdul Rashid through M/s. Qaim Ali Memon and Nishan Ali Haider, Advocates.

Complainant : Mst. Safia through Mr. Ghulam Mustafa, Advocate.

Respondent : The State, through Mr. Tahir Hussain A.P.G.

Date of Hearing : 09.12.2025.

Date of Order : 17.12.2025.

ORDER

TASNEEM SULTANA, J:- Through this common order, I intend to dispose of these two bail applications arisen out of Crime No. 1081 of 2025 registered with P.S SSHIA Karachi for offence under Sections 380, 338, 342, 452, 147, 148, 149, 504, 337-A(i), 337-H(ii) PPC, Earlier same relief was sought by the applicants before learned trial Court where their pre-arrest and post arrest bail applications were dismissed vide orders dated 08-10-2025 passed by the learned Additional Sessions Judge-III, Malir.

2. The details of the prosecution story is mentioned in the memo of bail application as well as FIR, copy whereof is annexed thereto, therefore, the same need not to be reproduced herein.

3. Learned counsel for the applicants contended that no specific role has been assigned to the applicants in the FIR and they are nominated with vague allegations; that there exists a civil property dispute between the parties wherein the complainant has illegally occupied property belonging to applicant Wasi Ullah Andher, who holds title documents and power of attorney for the said property (Annexure-D); that applicant Wasi Ullah had successfully obtained a protection order dated 01-09-2025 from the learned IV Additional District & Sessions Judge, Malir vide Cr. Misc. Application No. 3321/2025 (Annexure-E), which demonstrates the malafide intentions of the complainant; that the instant FIR is a result of the

civil property dispute and has been fabricated in collusion with police officials to blackmail, harass, and pressurize the applicants/accused; that nothing has been recovered from the possession of the applicants/accused to connect them with the commission of crime; that there is an unexplained delay of 20 days in the registration of the FIR, which creates serious doubts about the prosecution's case. It is well-settled that the benefit of doubt, even at the bail stage, goes in favor of the accused; that the investigation has been completed and case has been challaned; that the alleged offences does not fall within the prohibitory clause of Section 497 Cr.P.C, and as held in **PLD 2017 SC 733**, bail is the rule and its refusal is the exception in such cases;; the applicant Abdul Rashid is only 17 years old and is also entitled to bail under the provisions of the Juvenile Justice System Act, 2018. On all these submissions, learned counsel asserted that prosecution case against the applicants calls for further enquiry and they are entitled to the concession bail.

4. Learned A.P.G Sindh assisted by learned counsel for the complainant opposed the grant of bail to the applicants contending that the applicants/accused are nominated in the FIR with role of causing injuries to the complainant and her family, that the prosecution case is fully supported by medical evidence in the form of MLCs of the injured persons and That eyewitnesses have fully supported the prosecution case and possess videos and photographs of the alleged incident showing the high-handedness of the accused party and that FIR was lodged after seeking directions from learned Ex-Officio Justice of Peace, therefore, delay in FIR stand explained satisfactorily.

5. Heard. Record perused.

6. Allegation against the present applicants is that they along with 20-25 companions and 5-6 ladies forcibly entered the complainant's house and assaulted the complainant, her daughters, daughter-in-law, and son Inzamam for which Medical evidence in the form of MLCs allegedly supports the injuries.

7. Perusal of record reveals that the FIR was registered on 16.9.2025 with inordinate delay of 20 days of the occurrence, after the complainant moved a petition under Section 22-A Cr.P.C before

the learned Additional Sessions Judge/Ex-Officio Justice of Peace, who ordered registration of the FIR vide order dated 01-09-2025. It is noteworthy that even after passing of order by learned Justice of Peace on 01.9.2025, the complainant lodged FIR on 16.09.2025 after delay of 16 days without any plausible explanation creating serious doubt into the veracity of prosecution story. Obviously, it can not be excluded from consideration that the intervening period would have been consumed in due deliberation and consultation for throwing wider net and implicating innocent person. Reliance is placed in the case reported as **Ali Raza v. The State and others (2022 SCMR 1245)**.

8. Perusal of record further reveals that there is pre-existing civil property dispute between applicants and the complainant which actually belongs to Wasi Ullah who has produced title documents (Annexure-D) and obtained a protection order (Annexure-E) dated 01-09-2025, and allegedly the same has been illegally occupied by complainant. These factors do raise questions about the genuineness of the complainant's allegations and requires serious consideration. No specific injury is attributed to any applicant nor any thing is recovered from their possession to connect them with the commission of crime. Although presence of medical evidence (MLCs) establishes that injuries were caused, but the question remains whether sufficient material exists at this stage to connect each applicant with the commission of the alleged offences. The offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C. Besides, the applicant Abdul Rashid is stated to be only 17 years old, who is entitled to special consideration under the Juvenile Justice System Act, 2018, which mandates a more lenient approach toward juvenile offenders. Nothing has been recovered from the applicants/accused to connect them with the commission of crime. On all these scores, the prosecution case against the applicants calls for further enquiry.

9. It is settled proposition of law that ultimate conviction and incarceration of a guilty person can repair the wrong caused by mistaken relief of bail after arrest granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albiet his acquittal in the long run. Reliance is placed in the cases reported

as **Zaigham Ashraf v. The State and others (2016 SCMR 18)** and **Haji Muhammad Nazir and others v. The State (2008 SCMR 807)**. As far as question of sharing common intention and vicarious liability of the accused are concerned, which is to be determined by the Trial Court after recording of evidence. Reliance is placed on the case of **Manzoor Hussain and another v. State (2011 SCMR 902)**.

10. In view of the above discussion and considering the totality of circumstances, the interim pre-arrest bail granted to Hafeez son of Ramaz Ali and Wasi Ullah Andher son of Hidayatullah, applicants in Cr. Bail Appln. No.2799 of 2025 is hereby **CONFIRMED** on the same terms and conditions. Applicant Abdul Rashid S/O Manzoor Ali, is granted post arrest bail in Cr. Bail Appln. No. 2809 of 2025 subject to his furnishing solvent surety in the sum of Rs. 100,000/= and P.R bond in the like amount to the satisfactions of trial Court.

11. It is clarified that the observations made hereinabove are tentative in nature for the purposes of deciding the instant bail applications only and shall not prejudice the case of either party at trial. The learned trial court shall decide the case on its own merits in accordance with law after appreciation of evidence.

These Criminal Bail Applications are allowed in the above terms.

JUDGE