

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Bail Application No. 1590 of 2025

Applicants : Niyamatullah and Wahadatullah through Mr.Iqbal Shah, Advocate.

Complainant : Nihalullah Baig present in person.

Respondent : The State, through Mr.Mohammad Noonari, D.P.G.

Date of Hearing : 08.12.2025.

Date of Order : 17.12.2025.

O R D E R

TASNEEM SULTANA-J.:-Through this Criminal Bail Application applicant Niyamatullah and Wahadatullah are seeking pre-arrest bail in Crime No.349/2025, registered at Police Station Sachal, under sections 147, 149, 506, 504, 337-A PPC, subsequently enhanced with sections 337-A(iv), 337-F(i), 337-L(ii) and 324 PPC. Earlier same relief sought by applicants was declined vide order dated 11.06.2025.

2. Brief facts of the prosecution case are that on 04.3.2025 Nihal Allah Baig lodged FIR stating therein that on 03.2025 at about 2230 hours one person namely Niyamat was misbehaving with security guard at the Society gate of Ali Heights when his father Musa Baig tried to make them understand on which Niyamat started misbehaving with his father and asked who are you interfere whom his father told he is Committee Member of the Society and then his father came back home. When at about 2300 hours he went out for walking, accused Niyamat alongwith his unknown brother and four other accomplices armed with sticks attacked upon his father caused injuries to him by giving fists, kicks and sticks blows on which his father suffered severe injury on his left besides others. He further stated after receiving police letter, his father remained under treatment at Agha Khan Hospital, hence the matter was reported to police to above effect.

2. Learned counsel for the applicants reiterated the grounds already taken before the learned trial Court and contended that the applicants have been falsely implicated; that only applicant Niyamatullah was named in the FIR while his other brother was later on implicated in the case; that the offences are bailable in nature; that the CCTV footage of the site also reflect that it was father of complainant who kept beating the applicants by fists and stick to which they received injuries; that admittedly there is no eye witness of the occurrence and although Medical Board concluded in same line with Medical Certificate issued by MLO, whereby all the injuries allegedly suffered by Musa Baig are opined as bailable except injury No. ; thus the prosecution case against the applicants calls for further enquiry.

3. Conversely, learned A.P.G., assisted by the complainant, opposed the application and argued that the applicant Niyamatullah alongwith his brother and four other unknown accused have been assigned active role of causing fists, kicks and stick blows to father of complainant. The final medico-legal opinion shows injuries falling within more serious penal provisions, including injury on a vital part, and that section 324 PPC has also been added during investigation. It was contended that no element of mala fide, enmity, or ulterior motive on the part of the complainant has been shown so as to justify extraordinary relief of pre-arrest bail.

4. I have heard the learned counsel for the parties and perused the record with their assistance.

5. In the present case, it is not disputed that only Niayamatullah was initially named in the FIR and later on his brother Wahadatullah was also implicated. No specific injury is attributed to any accused and it is alleged that they collectively caused beatings by fists, kicks and stick blows. Admittedly there is no eye witness of the incident and the Medical Board has maintained the nature of injuries as disclosed by MLO whereby all the injuries fall within bailable provisions except injury No.1 which is opined as Shajjah e Munaqillah falling under Section 337-A(iv) PPC which carries punishment of Arsh and imprisonment of either description for ten years, yet it is to be determined at the trial after recording evidence as to who caused that injury in order to fix the individual liability against each accused for the role played by them in the commission of offence. Moreover, there is delay of one day in lodgment of FIR for which no plausible explanation has

been furnished by the prosecution. It can not be ruled out that intervening period was consumed for making consultation and deliberation to throw wider net for implicating innocent persons, more particularly when it was surfaced that injured Musa Baig was discharged from the Agha Khan Hospital on the very day. As far as enhancement of sections during investigation, by itself, is not sufficient to deny bail unless supported by clear and confidence-inspiring material, which is yet to be tested during trial. On all these scores, prosecution case calls for further enquiry. Reliance is placed in the case of *Ali Raza v. The State* (2022 SCMR 1245).

6. In the case of **Zaigham Ashraf v. State and others (2016 SCMR 18)**, the Hon'ble Supreme Court held that curtailing the liberty of a person is a serious step in law, therefore, judges shall apply judicial mind with deep thought for reaching fair and proper conclusion albeit tentatively. However, this exercise shall not be carried out in vacuum or in flimsy and casual manner as that will defeat the ends of justice because if the accused charged is ultimately acquitted at the trial, then no reparation or compensation can be awarded to him for long incarceration.

7. For what has been discussed above, I am of the considered view, applicants have been able to make out their case one of further enquiry. Accordingly, instant bail application is allowed. Consequently interim pre arrest bail already granted to the applicants on 17.6.2025 is hereby confirmed on the same terms and conditions.

JUDGE