

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 2715 of 2025

Applicant : Mst. Gulabo through Mr. Manzoor Hussain Khoso, Advocate.

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

Date of hearing : 04.12.2025

Date of order : 04.12.2025

ORDER

TASNEEM SULTANA, J.— Through this bail application, applicant Mst. Gulabo seeks pre-arrest bail in Crime/FIR No. 487 of 2025 registered at Police Station Shah Latif Town, Karachi, under Sections 336-B, 337-A(i) & 34, P.P.C. Prior to this bail application, the applicant preferred Criminal Bail Application No. 1274 of 2025, but the same was dismissed for non-prosecution vide order dated 16.09.2025. Earlier same relief was granted by the learned VIIIth Additional Sessions Judge, Malir, Karachi, which was later on recalled vide order dated 13.05.2025. Hence, this bail application for the same concession.

2. Brief facts of the prosecution case are that the complainant lodged the present FIR on 15.04.2025, inter alia, alleging that his sister was married to Zahid Khan Afridi about ten years ago and was being subjected to maltreatment by her husband. It is alleged that on 11.04.2025, when the complainant went to meet his sister, he was not allowed to meet her; thereafter, he visited the house along with elders and found his sister injured, whereupon he brought her to his house. It is further alleged that the complainant's sister disclosed that on 08.04.2025, her husband Zahid Khan Afridi, his mother Mst. Gulabo (present applicant), his brother Bilal and Asif, after beating and maltreating her, threw boiled water or some type of acid upon her and also threatened her with dire consequences if she disclosed the incident to anyone. It is further alleged that she was first taken to a private hospital and later, on 13.04.2025, the complainant approached the police station, obtained a medical letter and went to Civil Hospital and, subsequently, lodged the report to the above effect.

3. Learned counsel for the applicant contended that the applicant is an innocent elderly lady; that she has been falsely implicated on account of family dispute; that there is an unexplained delay of about seven days in

lodging the FIR, which creates serious doubts regarding the prosecution story; that the main accused/husband Zahid Khan Afridi has already been granted bail by the learned VIIIth Additional Sessions Judge, Malir, Karachi, therefore, on the principle of consistency, the applicant is also entitled to the concession of bail; that during investigation, Section 336-B, P.P.C. was deleted due to absence of medical evidence; that although Section 336, P.P.C. was later added, however, no medical record specifies the affected part of the body, which renders the allegations doubtful and calls for further inquiry.

4. Conversely, learned Deputy Prosecutor General duly assisted by learned counsel for the complainant opposed the application; contended that the applicant has been specifically nominated in the FIR; that the complainant's sister has attributed an active role to the present applicant along with the co-accused in subjecting her to maltreatment and thereafter throwing boiled water/acid upon her; that the allegations are grave in nature and involve violence against a female victim; that pre-arrest bail is an extraordinary relief, which is not to be granted as a matter of course; that the applicant does not deserve such concession at this stage; however, conceded that challan has been submitted and medical evidence regarding acid or corrosive substance is lacking on record.

5. Heard. Record perused.

6. Perusal of record reflects that the allegation against the applicant, as emerging from the FIR and the material placed on record, is that she, along with the co-accused, subjected the complainant's sister to maltreatment and allegedly threw boiled water or some type of acid upon her. However, it appears that the FIR was lodged with the delay of about seven days, which has not been satisfactorily explained at this stage. It further appears that the allegation regarding throwing of boiled water or acid is uncertain in nature and the investigating officer himself found no medical material to justify Section 336-B, P.P.C. In such circumstances, a question arises as to whether the allegation attributed to the present applicant can be conclusively determined at this stage, or it requires recording of evidence and its proper evaluation by the learned trial Court. It is also an admitted position that the co-accused/husband, assigned a similar and more direct role, has already been granted bail, therefore, the rule of consistency *prima facie* tilts in favour of the present applicant. The applicant being a woman, no specific role has been attributed to her beyond general allegations, and no material has been brought on record to show that she would abscond, tamper with prosecution evidence, or misuse the concession of bail. The offence does not fall within

the prohibitory clause of Section 497, Cr.P.C. and at this tentative stage, the case calls for further inquiry. It is settled that in such circumstances, bail is a rule and refusal is an exception. Reliance is placed on the case of **Muhammad Ramzan alias Jani Vs. The State and others (2020 SCMR 717)**.

In the case of **Zaigham Ashraf v. The State and others (2016 SCMR 18)** it was held by Honourable Supreme Court that bail can not be withheld as punishment. Ultimate conviction and incarceration of a guilty person can repair the wrong caused by mistaken relief of bail after arrest granted but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run.

7. The Honourable Supreme Court of Pakistan in the case of **Mohammed Tanveer v. the State (PLD 2017 Supreme Court 733)** while dilating upon the issue of bail in non-bailable offences falling outside the prohibitory clause of Section 497, Cr.P.C., *inter alia*, has held as under:

“We are shocked and disturbed to observe that in cases of this nature, not falling within the prohibition contained in section 497, Cr.P.C., invariably grant of bail is refused on flimsy grounds. This practice should come to an end because the public particularly accused persons charged for such offences are unnecessarily burdened with extra expenditure and this Court is heavily taxed because leave petitions in hundreds are piling up in this Court and the diary of the Court is congested with such like petitions. This phenomenon is growing tremendously, thus, cannot be lightly ignored as precious time of the Court is wasted in disposal of such petitions. This Court is purely a Constitutional Court to deal with intricate questions of law and Constitution and to lay down guiding principle for the Courts of the Country where law points require interpretation.”

8. In view of the foregoing facts and circumstances, the interim pre-arrest bail granted to the applicant vide order dated 12.11.2025 stands confirmed on the same terms and conditions. Consequently, the instant pre-arrest bail application is allowed. These are the reasons for my short order dated 04.12.2025.

9. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE