HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Present: Justice Jawad Akbar Sarwana

Crl. Bail Application No.S-1188 of 2025

Applicants	:	1) Ghulam Muhammad s/o Muhammad Hussain 2) Abdul Salam s/o Muhammad Hassan 3) Ghulam Hyder Bhutto s/o Khuda Bux Bhutto 4) Azizullah s/o Abdul Hakeem through Mr.Aakash Ali Bhurgari, Advocate
Complainant	:	Sikandar Ali s/o Muhammad Akram Khoso Through Mr.Sajjad Ali Gopang, Advocate
The State	:	Through Mr.Khalid Hussain Lakho, D.P.G
Date of hearing & Short Order	:	**26.03.2026 and 02.04.2026**
Date of reasons	:	**28.10.2026**

O R D E R

JAWAD AKBAR SARWANA, J.: Through the captioned bail application, applicants/accused (i) Ghulam Muhammad s/o Muhammad Hussain, (ii) Abdul Salam s/o Muhammad Hassan, (iii) Ghulam Hyder Bhutto s/o Khuda Bux Bhutto, and (iv) Azizullah s/o Abdul Hakeem seek pre-arrest bail in Crime No.385 of 2025, registered at Police Station Hyderabad, Sindh, for the offences U/Ss 324, 109, 147, 148, 149 and 337-H(ii) PPC. Earlier, the learned Model Criminal Trial Court/Ist Additional Sessions Judge, Hyderabad, declined their first bail applications vide order dated 30.08.2025.

2. I have heard the learned counsel for the applicants/accused, complainant and the learned DPG Sindh and have perused the record, and my observations are as herein below.

3. The background of the matter is set out in the FIR, which, for the sake of brevity, is not reproduced and may be read into this paragraph ad seriatim.

4. From the perusal of the record, it appears that the complainant Sikender Ali s/o Muhammad Akram by caste Khoso, lodged FIR

No.385/2025 on 10.08.2025 @ 2130 hours after a delay of almost 75 days, mentioning that on 25.05.2025 @1100 hours, some 100 accused with criminal intention carrying pistols, lathis, iron rods, etc. were involved in the criminal actions as set out in the said FIR. Out of about 100, the complainant named five persons in the FIR, of whom four above-mentioned applicants/accused are seeking concession of pre-arrest bail.

5. Sikandar Khoso has explained the delay in filing of the FIR based on time spent in Cr. Misc. Application No.2824/2025, filed on 29.05.2025, which culminated in the Order dated 13.06.2025 passed by the 5th Additional Sessions Judge, Hyderabad/Ex Officio Justice of Peace to take action in accordance with law. The said order dated 13.06.2025 does not direct the SHO to record the Complainant's (Sikandar Khoso's) statement. Thus, the delay in filing the FIR on 10.08.2025 is unexplained. Indeed, without furnishing any cogent or plausible explanation, such delay in registering the FIR, particularly in criminal cases of this nature, raises serious doubts about the authenticity of the prosecution version and suggests deliberation and consultation before registering the case. This aspect alone makes the applicant's case one for further inquiry under Section 497(2), Cr.P.C., notwithstanding "*malafide*" on the part of the Complainant/Sikander Khoso, who has narrowed the crime allegedly carried out by 100 persons to just 4/5 named accused, and this exercise has taken him almost 75 days from the occurrence of the crime and about 60 days after obtaining the orders from the Ex Officio Justice of Peace. The facts and circumstances of the case clearly raise a doubt as to the bona fides of the complaint. In the case titled "*Syed Aman Ullah Shah v. The State and another*" reported as PLD 1996 SC 241, the Apex Court has held as follows:-

> "So whenever reasonable doubt arises with regard to the participation of an accused person in the crime or about the truth/probability of the prosecution case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail then in the jail, during the trial."

6. It is also pertinent to observe that except for Section 324, PPC, all other sections mentioned in the FIR are bailable in nature. Whether Section 324, PPC is attracted in the peculiar circumstances of the case described in his complaint filed before the Ex-Officio Justice of Peace, allegedly carried out by 100 persons from the village attacking the complainant and the injured/witnesses armed with pistol, lathi, bailcha, axes, hammer and iron rod is a matter; given the overwhelming numbers, does not measure up to the injury caused. In the case in hand, with 100 villages armed as above, none suffered bullet wounds, nor severe injuries which may occur in an attack involving such a large number of attackers. The circumstances put up by the complainant do not inspire confidence and suggest *malafide* on his part, and at this tentative stage, the applicability of Section 324, PPC, given the above-mentioned circumstances, to consider this pre-arrest bail does not inspire confidence, thereby further fortifying the plea of mala fide raised on behalf of the applicants.

7. There is also another aspect. As per the final Medicolegal Certificate ("MLC"), read with the FIR, the following position emerges in relation to the four (4) applicant/accused:

(a) Ghulam Mohammad Sahito s/o Ghulam Muhammad (applicant/accused no.1) with Abdul Salam Bhutto s/o Muhammad Hassan (applicant/accused no.2), both jointly hit an iron rod on the left side of the *Complainant, Sikandar Khoso's* head, with the Final Medicolegal Certificate declaring the nature of injury as "Shajjah -i-Khafifa" with apparently a hard and blunt kind of weapon;

(b) Ghulam Hyder Bhutto s/o Khuda Bux Bhutto (applicant/accused no.3) hit *Tahir* on the head with a hammer, with the Final Medicolegal Certificate declaring the nature of injury as "Shajjah-i-khafifa, " with apparently a hard and blunt kind of weapon, and snatched a VIVO touch mobile; and

(c) Azzizullah s/o Abdul Hakeem (applicant/accused no.4) hit *Khalid Hussain* on his left arm with an iron rod, and the arm fractured, with the Final Medicolegal Certificate declaring the nature of injury as “other hurts” with a hard and blunt kind of weapon.

(d) Azzizullah s/o Abdul Hakeem (applicant/accused no.4) also hit *Muhammad Sharif* on the head with a lathi blow, with the Final Medicolegal Certificate declaring the nature of injury as (i) “Ghayr-jiafah-munaqqilah”, (ii) “Shajjah-i-khafifa”, and (iii) “other hurts”, each with a hard and blunt kind of weapon. However, as per report dated 22.01.2026, Muhammad Sharif s/o Muhammad Hussain was not produced by the police, and the MLC was deemed to have lost its legal validity, presently.

8. It may be observed that Section 337-A(i) or otherwise “Shajjah-I-khafifah” is punishable by two (02) years; and Section 337-F(vi) or otherwise “Ghayr-Jaifah-munaqqillah” is punishable by up to seven (07) years, except that the MCL for “Ghayr-Jaifah-munaqqillah” was/is currently in abeyance/suspended and presently of no effect.

9. Given that 100 villagers carried out the attack, as for the one who caused these injuries while the FIR nominates the accused, the same must be read in the context of the inordinate delay in lodging the FIR, and the injuries were not at all mentioned in the FIR except 337-H(ii), and, further, the cases of the applicants, also rests with the applicability of S. 324 and their vicarious liability, needs further inquiry at trial. Yet, be that as it may, the totality of the facts and circumstances suggests *malafide* on the part of registration of the FIR by the complainant.

10. Given the large number of accused gathered, it is difficult to imagine how the applicants/accused were identified, and their identification does not inspire confidence. Indeed, in the presence of enmity between the two clans which clashed, prima facie, the possibility of spreading the net wide by the complainant party so as to falsely entangle as many-as accused cannot be ruled out. In this

regard, I am also fortified with the observation of Hon'ble Supreme Court of Pakistan while dealing with the case of "Subeh Sadiq alias Saboo alias Kalu v. The State and others" reported in 2011 SCMR 1543.

11. Last but not least, all the other sections involved are bailable, and even though there is an allegation of straight fire, no one was injured and/or any bullets were found in the area, which suggests malafide in the set up on the FIR.

12. In the circumstances and in view of the legal position, the applicants/accused have been able to demonstrate that the FIR was lodged with *malafides* and a case for grant of pre-arrest bail has been made out in favour of the applicants/accused.

13. Consequently, vide short order dated 30.09.2025, this Bail Application was allowed and the applicants/accused (i) Ghulam Muhammad s/o Muhammad Hussain, (ii) Abdul Salam s/o Muhammad Hassan, (iii) Ghulam Hyder Bhutto s/o Khuda Bux Bhutto, and (iv) Azizullah s/o Abdul Hakeem who had been admitted to interim pre-arrest bail in in Crime No.385 of 2025, registered at Police Station Hyderabad, Sindh, for the offences U/Ss 324, 109, 147, 148, 149 and 337-H(ii) PPC subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each and P.R. bonds in the like amount to the satisfaction of Additional Registrar of this Court were confirmed bail on the same terms and conditions on which interim pre-arrest bail was granted to the applicants/accused (vide the short order dated 30.09.2025), and these are the reasons in support thereof.

14. Needless to mention that the observations made herein are merely tentative and shall not be relied upon by the parties or by the trial Court and shall not influence the learned trial Court at the time of final decision after recording of evidence and based on merits.

15. The pre-arrest bail is allowed in the above terms.

JUDGE

Asif