

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Cr. B.A. No. 345 of 2025

[Ghulam Haiderv.....The State]

Date of Hearing : 26.05.2025

Applicant through : Mr. Muhammad Ali Kolachi, Advocate

Respondents through : Mr. Abdul Waheed Lanjar Advocate for Complainant.

Ms. Sana Memon, APG.

ORDER

Miran Muhammad Shah, J:- The applicant Ghulam Haider son of Nindo Khan is seeking bail after arrest in FIR No. 23/2025 lodged under Section 324, 337-F(vi), 337-F(v), 337-L(ii), 504, 506(2), 35 PPC, at P.S. Khoski, after rejection of his bail plea by the learned Sessions Judge, Badin, vide order dated 21.03.2025.

2. The brief facts of the case are that on 07.01.2025, the complainant, his brothers namely Mehmood Ali, Salahuddin and complainant's uncle Sain Bux were present in the house and at about 03:30 p.m. accused Ghulam Haider, Muhammad Siddiq, Muhammad Hassan alias Hasso, Ali Akbar (armed with hatchets) whereas, Muhammad Suleman (armed with fire armed weapon) entered into the complaint's house and started abusing whereupon complainant's brother restrained them to stop abusing upon which the accused party inflicted hatchet and lathi blows to brother of complainant Mahmood owing to which he fell down and upon intervention, the accused fled away, hence this FIR was lodged.

3. Learned counsel for the applicant/accused premised his case on the arguments that there is a delay of two months in lodging of

FIR and prompt FIR is necessary to set the criminal law into motion, therefore, on this sole ground the applicant is entitled for bail. He next contended that there is a pending civil litigation between the parties and all witness cited in the present case are interested in prosecution of the applicant/accused and no witness has been cited from the inhabitant of the area. He further contended that applicant has been falsely implicated in this case as there is an enmity between the complainant party and police with the applicant/accused and on the behest of police, the complainant made such a concocted story to drag the applicant/accused in the present FIR. He lastly contended that co-accused persons have already been enlarged on bail by the learned trial court, therefore, the applicant/accused is entitled for concession of bail on the basis of rule of consistency.

4. In contrariwise, learned APG assisted by learned counsel for the complainant under the prescriptions of Section 493 Cr.P.C introduced on record that applicant/accused has not only been named in the FIR but has been comprehensively described with specific role of inflicting hatchet injury upon the injured Mehmood and the said hatchet was also got recovered on the pointation of the present applicant/accused on 06.03.2025, therefore, his involvement in the present FIR cannot be ruled out. She next contended that prior to this FIR, the applicant/accused is also a perpetrator of an FIR No.85/2024, therefore, if the applicant/accused is admitted on bail, he would repeat the offence as he has done so in the present case, hence he is not entitled for concession of bail in the present circumstances of the case.

5. I have heard the counsel for the applicant/accused and the complainant so also the learned APG. Admittedly, there is delay of two months in lodgment of FIR and there is a civil litigation pending between the two parties. Since no plausible explanation has been given in the FIR for delay in lodgment other than that they were trying to make a compromise details of such efforts are not mentioned in the FIR, so it could be safely presumed that the delay was caused after due deliberation and consultation in light of the prevailing enmity and names and roles of present applicant was formulated in the FIR to involve him and other co-accused in this matter. The enmity is a double edged sword which can be used either way, however, as held by the superior courts that such benefit is to be given to the accused. Since the counsel for the complainant as well as learned APG has nowhere pledged enmity evidence despite being purely an injury case. The medical board was also constituted, however, no concrete findings were placed before this court. Otherwise the investigation report in the challan sheet as well as the FIR only state the usage of the hatchet by the present applicant/accused however, no injuries on the vital part have been alleged or shown through medical record. The only allegation upon the present applicant is that on his pointation the hatchet allegedly used for the offence was recovered however such alleged fact needs verification at the time of recording of evidence, otherwise injuries being on non vital part of the body and of simple in nature. Furthermore, the other co-accused have also been granted concession of bail, therefore, the rule of consistency applies in this case. The ingredient of section 324 PPC are not attracted in this

case, whereas, all other sections allegedly applied do not fall within the prohibitory clause. In light of such observations, the case for bail is made out. The present applicant/accused is therefore granted bail in the sum of Rs.100,000/- and PR bond in the like amount to the satisfaction of learned trial court.

6. Before parting, I would like to further observe that if the applicant after getting bail fails to appear before the trial Court and the trial Court is satisfied that the applicant has misused the concession of bail and became absconder then the trial Court is fully authorised to take every action against the applicant and his surety including cancellation of the bail without making a reference to this Court.

7. The observation made herein above are tentative in nature and would not prejudice the case of either party.

JUDGE