

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD**

Crl. Bail Application No.S-680 of 2025

Applicant: Mehboob Ali son of Allah Bachayo through
Mr. Sher Ali Behan, Advocate.

For the Complainant: Mr. Rasool Bux Soomro, advocate.

For the State: Ms. Sana Memon, A.P.G.

Date of hearing: 12-08-2025

Date of Order: 12-08-2025

ORDER

Jan Ali Junejo, J. – The applicant, Mehboob Ali, has filed this application under Section 498 of the Code of Criminal Procedure, 1898, seeking his pre-arrest bail in connection with Crime No. 19/2025 registered at Police Station Berani (District Sanghar) registered under Sections 324, 504, 34, P.P.C. The Applicant earlier filed bail application before the Sessions Court, which was transferred to the Court of learned IInd Additional Sessions Judge, Tando Adam, who dismissed the pre-arrest bail of the Applicant vide Order dated: 13.06.2025.

2. As per the First Information Report (FIR) lodged by the complainant, Mir Hassan, the prosecution alleges that on 25.04.2025, at approximately 10:30 p.m., a dispute over agricultural land escalated, resulting in the incident in question. It is alleged that the applicant, Mehboob Ali, accompanied by three others, arrived at the scene, where the applicant purportedly fired a gunshot that struck the complainant's brother, Rehmatullah, on his legs. Initially, the applicant, along with co-accused Jan Muhammad and Salman

Jan, was granted interim pre-arrest bail by the learned Sessions Judge, Sanghar, vide order dated 30.04.2025. Subsequently, the matter was transferred to the Court of the learned 2nd Additional Sessions Judge, Tando Adam, for hearing of final arguments. However, through the impugned order dated 13.06.2025, the learned 2nd Additional Sessions Judge confirmed the pre-arrest bail of co-accused Jan Muhammad and Salman Jan but dismissed the bail application of the present applicant, thereby recalling his interim bail. Aggrieved by this order, the applicant has invoked the jurisdiction of this Court.

3. Learned counsel for the applicant has contended that the applicant is innocent and has been falsely implicated due to a long-standing property dispute. It is further argued that the two-day delay in lodging the FIR, without a satisfactory explanation, casts serious doubt on its authenticity. It is further contended that the medical evidence is dubious, as the initial certificate was allegedly issued without an examination, and the Medico-Legal Certificate (MLC) lacks detail, calling for further inquiry. He further argued that the incident allegedly occurred on the applicant's own land, making it improbable that he would attack his tenants there. The significant time lapse of over 75 minutes between the alleged incident and the injured's arrival at the hospital remains unexplained. The applicant's case is identical to that of the co-accused who have been granted bail, and the allegation of common intention is a matter for trial. The injuries are on a non-vital part of the body, and the fundamental principle of "bail, not jail" should apply. Lastly, the learned prayed for confirmation of the interim bail.

4. Learned counsel for complainant and Learned Assistant Prosecutor General, opposing the application, relied on the reasoning of the learned Additional Sessions Judge and argued that the applicant is specifically named

in the FIR with a direct attribution of firing the shot. They further argued that the medical evidence corroborates the firearm injuries. It is further contended that the offence under Section 324 PPC is punishable with imprisonment up to ten years, placing it within the prohibitory clause of Section 497(1) Cr.P.C. Lastly, they prayed for dismissal of bail.

5. I have carefully considered the submissions of learned counsel for the parties and the learned Assistant Prosecutor General for the State and undertaken a tentative appraisal of the material available on record, as permissible at the bail stage. The record reflects that the injured, Rehmatullah, sustained injuries on the thigh of his left leg and on a different part of his right leg—both of which are non-vital parts of the body. Although the injured was allegedly at the mercy of four armed individuals, each reportedly carrying a gun, repeater, pistol, and hatchet, it is significant to note that none of the assailants repeated their fire or directed their blows toward any vital organ of the body, despite having ample opportunity to do so. This circumstance prima facie casts doubt upon the prosecution's allegation of an intent to commit murder, which is a key ingredient for an offence under Section 324, P.P.C. Therefore, the case requires further inquiry to determine whether the nature and placement of the injuries were indeed sufficient to cause death in the ordinary course of nature, or whether they reflect an intention to cause harm of a lesser degree. Reliance is placed on the principle laid down by the Honourable Supreme Court in case of *Ali Raza v. The State and others (2022 SCMR 1245)*, wherein it was observed that: *"It is also an admitted position that the petitioner fired only single shot at the non-vital part i.e. wrist of the injured PW and had not repeated the same despite having ample opportunity to do so, which shows that perhaps the petitioner had no intention to kill the injured PW"*. Reference may also be made to the principle enunciated by the Honourable Supreme Court of

Pakistan in the case of *Jamaluddin and another v. The State (2023 SCMR 1243)* wherein it was held that: *“The complainant and the injured PW received injuries on the non-vital parts of the body and the petitioners did not repeat the fire despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable in the case or not would be determined by the learned Trial Court after recording of evidence. As far as the question which requires the attention of this Court is that petitioner Jamaluddin has been granted ad interim pre-arrest bail by this Court whereas the other petitioner Rabail has filed petition claiming post-arrest bail. As far as the principle enunciated by this Court regarding the consideration for grant of pre-arrest bail and post-arrest bail are entirely on different footings is concerned, we have noticed that in this case both the petitioners are ascribed the same role. For the sake of arguments if it is assumed that the petitioner enjoying ad interim pre-arrest bail is declined the relief on the ground that the considerations for pre-arrest bail are different and the other is granted post-arrest bail on merits, then the same would be only limited upto the arrest of the petitioner Jamaluddin because of the reason that soon after his arrest he would be entitled for the concession of post-arrest bail on the plea of consistency”*. Besides this, the FIR itself acknowledges the existence of a dispute between the parties regarding the claim of the land, thereby indicating a pre-existing enmity that could potentially lead to false implication or exaggeration of the alleged incident. It is further noted that co-accused Jan Muhammad and Salman Jan have already been granted the concession of pre-arrest bail by the learned trial Court vide Order dated 13-06-2025, thereby attracting the principle of consistency in extending similar relief to the present Applicant. Moreover, the allegations against the Applicant, when examined in light of the nature and location of the injuries sustained by the injured, prima facie reflect a non-fulfillment of the essential ingredients of Section 324, P.P.C., particularly with regard to the intent to commit murder. In these circumstances, the case of the present Applicant requires further inquiry

within the contemplation of Section 497(2), Cr.P.C. Accordingly, the Applicant is entitled to the concession of pre-arrest bail.

6. Under these circumstances, the Applicant had successfully established a strong case for the grant of pre-arrest bail. Consequently, this Bail Application was allowed, and the interim pre-arrest bail already granted to the Applicant, Mehboob Ali S/o Allah Bachayo, was confirmed on the same terms and conditions as previously imposed and these are the reasons of my short Order dated 12.08.2025.

7. The applicant shall appear before the Trial Court on each and every date of hearing and shall cooperate with the investigation and trial proceedings. It is clarified that any observations made herein are tentative and are solely for the purpose of deciding this bail application. They shall not, in any manner, influence the learned Trial Court during the final trial of the case, which shall proceed strictly on its own merits, uninfluenced by this order.

JUDGE

Ahmed/Pa,