

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.462 of 2025
Criminal Bail Application No.212 of 2025

Applicants : i. Syed Abdul Rasheed S/o Syed Muhammad
[in CrI. B.A. No.462/2025] Shoaib
ii. Sameer S/o Abdul Ghani
through Mr. Farukh Usman, Advocate

Applicants : i. Noor Wahid S/o Abdul Wahid
[in CrI. B.A. No.212/2025] ii. Muhammad Hussain S/o Shafi
Muhammad
iii. Awais S/o Muhammad Jamil
iv. Anis Ullah S/o Inamullah
through Mr. Farukh Usman, Advocate

Complainant : Sajjad Ali S/o Haji Muhammad
through Mr. Muhammad Nasir, Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl. P.G.
a/w PI/SIO Ali Gohar & SIP/I.O. Sabir Sultan
of PS Chakiwara

Date of hearing : 09.04.2025

Date of order : 09.04.2025

ORDER

AMJAD ALI SAHITO, J – Through this consolidated order, I propose to adjudicate upon both pre-arrest bail applications filed by the above-named applicants in connection with Crime No. 264/2024, registered under Sections 147, 148, 149, and 337-A(i) of the Pakistan Penal Code at Police Station Chakiwara, subsequent to the dismissal of their bail petitions by the learned Vth Additional District and Sessions Judge, Karachi South, vide order dated 31.10.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicants contends that the applicants are innocent and have been falsely implicated in the present case. He submits that, in fact, a mutual altercation occurred between the parties, during which members of the applicants' side

also sustained serious injuries. It is specifically stated that one of the applicants, namely Abdul Rasheed, lost three of his teeth as a result of the said clash. Learned counsel argues that the applicants have been maliciously dragged into these proceedings despite their innocence, and it remains to be determined, upon recording of evidence, as to which party was the aggressor and which was the aggressed. He further submits that eight co-accused have already been granted bail, and therefore, the applicants are also entitled to the same relief on the principle of consistency. It is also asserted that the applicants have been regularly attending the Court and are no longer required for the purposes of investigation. In conclusion, learned counsel prays for confirmation of pre-arrest bail in favour of all the applicants. In support of his arguments, reliance has been placed upon the following precedents:

- 2023 YLR Note 80 (*Bilal Gul Muhamamd vs. The State*)
- 2023 YLR 690 (*Dr. Noor-ul-Haq and 3 others vs. The State*)
- 2023 SCMR 330(*Muhammad Umar Waqas Barkat Ali vs. The State and another*)
- 2023 SCMR 1898 (*Saad Zia vs. The State and others*)

4. Conversely, learned counsel for the complainant, while opposing the confirmation of pre-arrest bail, has contended that the applicants, forming an unlawful assembly, launched a mob attack on the complainant party, resulting in serious injuries to several staff members of the Hospital. He further submits that one of the applicants, namely Abdul Rasheed, is an influential individual who also defamed the Principal of the Nursing School. It is asserted that the applicants have a history of similar conduct and were previously involved in two other cases of like nature. It is also brought to the Court's attention that applicant Abdul Rasheed had earlier filed an application under Sections 22-A and 22-B Cr.P.C. before the trial Court, which was dismissed for non-prosecution. Learned Additional Prosecutor General further submits that the injuries sustained by the complainant party fall within the ambit of Section 337-A(iii) PPC, which carries a statutory punishment of up to ten years' imprisonment.

5. Heard the parties and perused the material available on record.

6. Admittedly, the names of the applicants/accused are specifically mentioned in the FIR with distinct roles attributed to them. It is alleged that on 16.09.2024 at approximately 12:00 p.m., the present applicant Abdul Rasheed, an ex-Member of the Provincial Assembly, along with male students of the School of Nursing namely Hussain, Irfan, Anees, Owais, Wahid, Hamid, Ubaid, Muhammad Abdullah, Rameez, Yousuf, Fateh, and Habib-ur-Rehman along with members of Jamat-e-Islami including Aumair Baloch, and approximately 10 to 15 other unidentified individuals, all allegedly armed with wooden sticks (dandas) and stones, unlawfully entered the premises of Lyari General Hospital. There, they reportedly assaulted the complainant who is employed as a Computer Operator at the said hospital along with other staff members, patients, and bystanders, inflicting multiple injuries on various parts of their bodies. As a result of the said incident, the complainant and several staff members sustained serious injuries. The ocular version of the incident is duly corroborated by the medical evidence, and the injured eye-witnesses have supported the complainant's account of events.

7. With regard to the contention raised by learned counsel for the applicants that members of the applicants' party, particularly Abdul Rasheed, also sustained injuries during the alleged altercation, including the loss of three teeth by Abdul Rasheed. It is noted that upon inquiry in open Court regarding the number of stitches he received on his lips, the applicant failed to provide a satisfactory response. Moreover, no visible signs of stitches were observed on the lips of Abdul Rasheed. In rebuttal, learned counsel for the complainant submitted that Abdul Rasheed was already suffering from dental cavities and had previously affixed three steel teeth, which he allegedly removes at will in order to fabricate false claims and falsely implicate others.

8. Furthermore, learned counsel for the complainant has placed on record two FIRs bearing No. 254/2024 registered at P.S. Chakiwara and No. 438/2022 registered at P.S. Aram Bagh, to substantiate the assertion that applicant Abdul Rasheed is a habitual offender and has been involved in similar offences. It is alleged that in collusion with his co-accused, he forcibly entered the hospital premises and launched an attack upon the complainant party, thereby repeating the offence and misusing the concession of bail previously granted

in the aforementioned cases. Upon being queried by the Court as to the reason behind the accused's entry into the hospital premises, learned counsel for the applicants responded that hospital officials were allegedly involved in corrupt practices.

9. From the foregoing circumstances, it is evident that private individuals or parties are not vested with the authority to take the law into their own hands, nor can they assume the role of judge and jury to adjudicate matters pertaining to their own grievances. In the event of any legitimate complaint, the appropriate course of action would be to seek redress before the competent legal forum. The injuries sustained by the complainant party fall within the scope of Section 337-A(iii) of the Pakistan Penal Code, which prescribes a punishment of up to ten years' imprisonment, thereby attracting the prohibitory clause of Section 497 of the Criminal Procedure Code. Moreover, the record reflects that subsequent to the grant of bail in a previous matter, the accused persons have allegedly repeated the offence, thereby abusing the concession of bail. At the stage of considering bail, only a tentative assessment of the material on record is required. It is also pertinent to note that no allegation of malice, ill-will, or personal enmity has been raised by the applicants/accused, which could serve as a basis for asserting false implication in the instant case.

10. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others' [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every

run of the mill criminal case as it seriously hampers the course of the investigation.

11. In view of the above, learned counsel for the applicant has failed to make out a case for grant of bail in subsection (2) of Section 497 Cr.P.C. Resultantly, the instant bail applications are **dismissed**. The interim pre-arrest bail granted to the applicants/accused vides orders dated 07.02.2025 is hereby recalled.

12. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants/accused on merits.

JUDGE

Kamran/PA