

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS.**

Criminal Bail Application No.S-250 of 2025

Applicants: **(i).** Rosha-ul-Din s/o Qabool Rahimoon.
(Called absent).
(ii). Moula Bux s/o Muhammad Salar.
(present on bail).
Through Mr. Ghulam Mustafa Channa,
Advocate.

Respondent: The State through Mr. Neel Parkash,
Deputy Prosecutor General, Sindh
a/w S.S.P, Umerkot.

Complainant: Mst Mugeeman s/o late Chanesar
Khan, Through, Mr. Parshotam K.
Khatri Advocate.

Date of hearing: **08.10.2025**

Date of Order: **08.10.2025**

O R D E R.

AMJAD ALI SAHITO, J:- Through this bail application, the applicants/accused named above seeks their pre-arrest bail in Crime No.153 of 2025, under sections 324, 147, 148, 149, 509, 337-H(ii), 337-F(i), 498-A, 447, 354 and 511 P.P.C, registered at P.S Umerkot City, after their bail plea was declined by the learned Additional Sessions Judge-I, Umerkot.

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

3. Learned counsel for the applicants/accused has contended that the applicants/accused are innocent and have been falsely implicated in the

instant case due to the mala fide intention of the complainant. It is argued that the First Information Report (FIR) was lodged after an inordinate and unexplained delay of twelve hours, which casts serious doubt upon the veracity and authenticity of the allegations leveled therein. Learned counsel further submitted that the entire prosecution story is false, fabricated, and motivated by ulterior and malicious considerations.

4. It has been asserted that the complainant has concocted a false incident with the intent to usurp a bungalow that had been gifted by the deceased Chanesar to his first wife, Mst. Fatima. Subsequent to his demise, the complainant and her daughter allegedly took unlawful possession of the said property and compelled Mst. Fatima to vacate the premises, as a result of which she is presently residing with applicant/accused No.1 in the village.

5. It was further argued that the parties are closely related the complainant being the real aunt of applicant/accused No.1, and her daughter being his first cousin, hence, the alleged act is highly improbable and inconsistent with normal human conduct. Learned counsel submitted that the dispute, in essence, arises out of intra-family property issues, for which civil litigation between the parties is already pending before the competent forum.

6. It was contended that the medical certificate does not corroborate the allegations of physical assault or forcible dragging, and the deletion of Section 354-A, PPC from the FIR further undermines the prosecution's version. Moreover, only a single empty cartridge was allegedly recovered from the scene, despite the complainant's assertion of multiple gunshots, which creates material contradictions in the

prosecution narrative.

7. Learned counsel further pointed out that the witnesses cited by the prosecution reside several houses away from the alleged place of occurrence, and no independent or immediate neighbor has supported the prosecution's version, thereby rendering the case doubtful. Lastly, it was argued that the applicants/accused are respectable citizens with no previous criminal record and have been falsely implicated due to family enmity and ulterior motives. The complainant and her daughter have allegedly misused their gender status to derive undue advantage by lodging a false and fabricated case. Accordingly, the applicants/accused are entitled to the concession of pre-arrest bail.

8. On the other hand, learned counsel for the complainant and learned Deputy Prosecutor General have vehemently opposed for confirmation of pre-arrest bail and prayed for its dismissal.

9. On the last date of hearing, both accused persons were called absent. Learned counsel for the applicants/accused submitted that the said accused had been unlawfully apprehended by the police and were presently detained illegally at Police Station Umerkot City. Consequently, notice was issued to the Senior Superintendent of Police (SSP), Umerkot. In response thereto, the SSP Umerkot appeared before the Court and categorically denied the allegations, stating that neither of the accused persons had been abducted nor were they in illegal confinement of the police; rather, subsequent to the grant of bail, the applicants/accused failed to join the investigation and remained absent.

10. Today, one of the applicants/accused, namely Moula Bux, is present before the Court, whereas the

other applicant/accused, Roshan-ul-Din, is called absent.

11. Conversely, the daughter of the complainant, Mst. Khadija, is present in Court and has stated that when the accused persons entered their house and demanded that they vacate the premises, upon their refusal, the accused persons subjected them to physical assault and torn her clothes, thereby exposing her before the accused persons and other strangers.

12. Heard and perused.

13. From a careful perusal of the record, it transpires that approximately six persons, duly armed with weapons, unlawfully entered into the house of the complainant party with the intent to forcibly dispossess them of the said premises. Upon resistance by the complainant party, the accused persons allegedly resorted to abusive language, maltreatment, and physical assault upon the womenfolk present at the scene.

14. It further appears from the record that the applicant/accused Roshan-ul-Din allegedly fired a straight shot at the complainant Mst. Muqeema, while the applicant/accused Moula Bux is stated to have inflicted a butt blow upon the left leg of the complainant's daughter, Mst. Khadija. Thereafter, the applicants/accused purportedly dragged Mst. Khadija out of the house, during which her clothes were torn, resulting in her exposure before the accused persons and other strangers.

15. In these circumstances, the ingredients of Section 354-A, Pakistan Penal Code (PPC), appear to be fully attracted to the facts of the present case. However, learned counsel for the complainant contends that the Investigating Officer (I.O.), acting

with mala fide intention and ulterior motives, has unlawfully deleted Section 354-A, PPC from the case and, instead, has mala fide inserted Section 511, PPC. It is pertinent to mention that Section 511, PPC provides as follows:–

“Punishment for attempting to commit offences punishable with [imprisonment for life] or a shorter terms. Whoever attempts to commit an offence punishable by this Code with [imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with [Imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence,] or with such fine [daman] as is provided for the offence, or with both.

16. From the contents of the FIR and the statements of witnesses recorded by the Investigating Officer (I.O.) at this preliminary stage, it prima facie appears that the provisions of Section 354-A, Pakistan Penal Code (PPC), are fully attracted, as the accused persons allegedly assaulted the womenfolk by using criminal force, stripped one of them of her clothes, and exposed her before the accused and other strangers. The Investigating Officer has erroneously invoked Section 511, PPC, whereas the material on record indicates that the alleged offence was completed in its entirety.

17. In this regard, the Senior Superintendent of Police (SSP), Umerkot, has submitted that, in view of the provisions of the Anti-Rape (Investigation and Trial) Act, 2021, the investigation shall be transferred to the Special Sexual Offence Investigation Unit (SSOIU). Upon transfer, further investigation shall be conducted, and a supplementary police

report/challan shall be submitted before the concerned Magistrate in accordance with law.

18. Furthermore, the ocular account finds corroboration from the medical evidence, and the prosecution witnesses (PWs), including the victim, baby Khadija, in their statements recorded under Section 161, Cr.P.C., have fully supported the version of the complainant.

19. Moreover, no mala fide intent or ulterior motive has been attributed to the complainant party by the applicants/accused. On the contrary, the applicants have been specifically named in the FIR with defined and particular roles. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court of Pakistan reported as *2019 SCMR 1129*, wherein it has been held as follows:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner 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 investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

20. At bail stage, only tentative assessment is to be made. Sufficient material is available on the record to connect the applicants with the commission of alleged offence.

21. The learned counsel for the applicants has failed to establish the case of the applicants/accused warranting the confirmation of interim pre-arrest bail.

Accordingly, the instant bail is hereby **dismissed**. The interim bail granted to the applicants/accused vide order dated **29.09.2025** is hereby **recalled**.

22. 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 on merits.

JUDGE

Adnan Ashraf Nizamani