

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No.S-283 of 2025
(Aijaz Ali Shahani & 2 others Vs. The State)

Crl. Bail Application No.S-284 of 2025
(Noshad Ali Shahani & another Vs. The State)

Crl. Bail Application No.S-290 of 2025
(Muhammad Hassan Shahani & another Vs. The State)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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- 1. For Orders on office objection.
- 2. For hearing of bail application.

ORDER.
19-05-2025.

M/s Shah Muhammad, Bango & Mr. Abdul Sattar N. Soomro and Mr. Muneer Ahmed Soomro Advocates for applicants.

Mr. Ghazanfar Abbas Jatoi Advocates for complainant.

Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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Ali Haider ‘Ada’,J:- By this single order, I intend to dispose of the following bail applications, as they arise from the same crime bearing FIR No. 11/2025, registered at Police Station Ranipur, District Khairpur, for offences under Sections 324, 452, 114, 337-H(ii), 148, and 149 PPC

Criminal Pre-Arrest Bail Application No. S-283/2025, filed on behalf of applicants/accused Aijaz Ali, Parvez Ali, and Muhammad Ayub;

Criminal Pre-Arrest Bail Application No. S-284/2025, filed on behalf of applicants/accused Noshad Ali and Murad Ali; and

Criminal Post-Arrest Bail Application No. S-290/2025, filed on behalf of accused Muhammad Hassan and Bakhat Ali.

Previously, the applicants had filed similar bail applications before the learned Sessions Judge, Khairpur, which were subsequently transferred to the Court of the learned Additional Sessions Judge, Gambat. The said Court declined their bail applications vide order dated 28-03-2025.

2. Briefly, the facts of the instant case, as stated in the FIR, are that complainant Mst. Shabana Shahani lodged FIR No. 11/2025 on 21-01-2025 at Police Station Sobhoderi. She alleged that on 20-01-2025, at about 9:30 p.m., she was present at her house along with her son Raheel, relative Atif Ali, and other family members. At that time, accused Nadeem and Naeem, both armed with guns, Aijaz armed with a repeater, Parvez with a gun, Ayub with a lathi, Muhammad Hassan with a repeater, Murad Ali with a pistol, Noshad Ali with a Kalashnikov, Bakhat Ali with a gun, and four unidentified persons, forcibly entered her house and on the instigation of accused Ayub Shahani, co-accused Nadeem fired directly at Raheel with the intention to commit his murder. The shot hit Raheel, causing him to fall to the ground. The remaining accused allegedly resorted to aerial firing with the intention to create fear and harassment. Later on, the accused fled from the scene. Subsequently, the complainant appeared at the police station and lodged the aforementioned FIR.

3. Learned counsel for the applicants/accused, representing their respective parties, contend that the applicants are innocent and have been falsely implicated in the present case. It is argued that the specific role of causing firearm injury to the injured PW Raheel has been attributed solely to co-accused Nadeem. The applicants/accused have not caused any injury either to Raheel or to any other prosecution witness or the complainant. The only allegation against the applicants is their presence at the scene and their act of making aerial firing, as well against accused being as instigator, which does not, per se, constitute a direct assault or attempt to murder. In light of these contentions, learned counsel submits that the applicants/accused are entitled to the concession of bail. In support of their arguments, reliance has been placed upon the cases of *Abdul Khaliq v. The State* reported as 2023 P.Cr.L.J 323 and *Khurram Bashir v. The State* reported as 2011 MLD 346.

4. On the other hand, learned counsel for the complainant has opposed the grant of bail to the applicants/accused on the ground that they were specifically nominated in the FIR. It is contended that the applicants, being members of an unlawful assembly, in furtherance of their common object, forcibly entered the complainant's house and facilitated co-accused Nadeem in causing a firearm injury to PW Raheel with the intent to commit his murder. Therefore, the applicants/accused are not entitled to the concession of bail.

5. Conversely, learned Additional Prosecutor General for the State has argued that the main accused, Nadeem, has been declared innocent during the course of investigation, and his name has been placed in Column No. II of the challan. However, the applicants/accused are alleged to have trespassed into the complainant's house and committed the offence in question. Therefore, they are not entitled to the concession of bail.

6. Heard, learned counsel for the parties and have also perused the material available on record.

7. A perusal of the FIR reflects that there is a delay of one day in its lodging, which has not been plausibly explained by the complainant. Unexplained delay in setting the Criminal law into motion often casts doubt on the veracity of the prosecution story and creates a presumption of deliberation and consultation, particularly in cases involving alleged group Criminal acts. It is well-settled law that such delay must be satisfactorily accounted for; otherwise, it adversely affects the prosecution case.

8. As for the applicants/accused, the allegation against them is of general presence at the place of occurrence and of making aerial firing as well as against accused Ayob as being instigator. No specific overt act of causing injury to any person, including the complainant or other prosecution witnesses, has been assigned to them. Their alleged role, as described in the FIR, appears to be

indirect, and whether it amounts to active participation in the commission of the offence under Sections 324, 452, or 114 PPC, as such to be determined at the time of trial and now at this bail stage the case of applicants fall within the ambit of further inquiry under Section 497(2) Cr.P.C. In this regard, reliance may be placed on the case of ***Ghulam Hyder v. The State (2021 SCMR 1802)***,

9. Furthermore, the complainant herself has disclosed in the FIR the existence of a prior dispute over the house. This admitted background suggests that there was already animosity between the parties, thereby raising a genuine possibility of false implication due to mala fide or ulterior motives, which cannot be ruled out at this stage.

10. It is also pertinent to note that the investigation has been completed, the case has been challan and the applicants/accused are no longer required for the purpose of further investigation. Their continued incarceration, in the absence of any compelling circumstances, would amount to pre-trial punishment, which is not the object of bail jurisprudence.

11. For the forgoing reason above, learned counsel for the applicants/accused has made out a good case for confirmation of bail in the light of sub section (2) of Section 497 Cr.P.C, hence interim pre arrest bail already granted to the applicants/accused Aijaz Ali, Parvez Ali, Muhammad Ayub, Noushad Ali and Murad Ali, vide order dated 07-04-2025, is hereby confirmed on same terms and condition, while applicants/accused Muhammad Hassan and Bakhat Ali are granted bail subject to furnishing their solvent surety in the sum of Rs. 50,000/- (Fifty Thousand Rupees Only) each and P.R bond in the like amount to the satisfaction of learned trial Court. The above Bail applications are disposed of in above terms.

12. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

J U D G E

Nasim/P.A