

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Appln. No.249 of 2025
Criminal Bail Appln. No.196 of 2025

Applicant

Ali Murad son of Ghulam Abbas : through Mr. Aftab Hussain shar,
in CrI. B.A. No.S-249/2025 Advocate.

Applicant

Shahnawaz s/o Ghulam Abbas : through Mr. Noor Hassan Malik,
in CrI. B.A. No.S-196/2025 Advocate.

The State : through Syed Sardar Ali Shah Rizvi,
Addl.P.G. Sindh for State.

Complainant, : through Mr. Ghulam Shabir Bhutto,
Muhammad Malook. Advocate.

Date of hearing. : 27.03.2025

Date of Order. : 27.03.2025

ORDER

Ali Haider 'Ada', J. By this common order, I intend to dispose of
aforementioned CrI. Bail applications as same arising out of same FIR and
common question of law as well as facts are involved.

The applicant ***Ali Murad*** in CrI. Bail application No.S-249 of 2025 seeks
his admission on pre-arrest bail whereas applicant ***Shahnawaz son of Ghulam
Abbas Channa*** in CrI. Bail application No.S-196 of 2025 seeks his release on
post-arrest bail in Crime No.13 of 2025 registered at Police Station, Sorah under
Sections 324, 452, 427, and 382 PPC. As the incident was reported on 13.02.2025
while date of incident was disclosed by the complainant before police on
12.02.2025. The bail plea raised by applicants before Court below were declined
through orders dated 01.03.2025 and 18.03.2025 respectively, hence these bail
applications.

2. The facts in nutshell are that complainant Muhammad Malook lodged FIR on 13.02.2025 at Police Station, Sorah stating therein that applicants Ali Murad and Shahnawaz assaulted house of complainant at about 10:30 a.m. they both armed with weapons alongwith other co-accused namely, Muhammad Rafique, Mir Muhammad, Nawab, Mehboob alias Hajjan, Mumtaz, Arshad, Arbelo, Muhammad Nawaz and two unidentified persons and on coming applicant/accused Ali Murad gave threats why they are constructing the wall over plot, they demolished the same and later on applicant Ali Murad caused injury to PW Ayaz Ali on his head who raised his hands up the injury caused to him on his middle finger of left arm. After getting medical letter and medication examination on the next day complainant appeared at Police and lodged FIR.

3. Mr. Aftab Ahmed Shar, learned Counsel for the applicant/accused Ali Murad in Crl. Bail Application No.S-249 of 2025 submits that the FIR was lodged after one day delay without any plausible explanation, as once they appeared before police for getting police letter which is to be determined that why they did not lodge FIR, even the complainant Muhammad Malook has not received any injury so he can safely record his version but despite that he appeared on the next date for registration of FIR which shows that to improve the version and plan in order to involve the applicant in this case. Further he submits that already one FIR bearing Crime No. 171 of 2024 was lodged by co-accused Muhammad Azam against complainant party of this case u/s 506/2, 504, 34 PPC at Police Station Saleh Pat in which complainant party is on bail vide order dated 20.02.2025. In support of his assertion he produced certified copy of order dated 20.02.2025 passed by Additional sessions Judge-III, Sukkur in Crl. Bail application No.277/2025, same is taken on record. He further adds that apparently name of applicant is appearing in the FIR, however, enmity is alleged, as no doubt the

enmity is double edged weapon but at this stage same is to be considered any beneficial manner in favor of the accused. He further submits that on 10.10.2024 applicant Ali Murad moved an application to SSP Khairpur as on such application the SSP Khairpur forwarded the said application to SHO Police station, Sorah for legal action, as after those step, the name of applicant was *malafidely* and with ulterior motives inserted in the FIR. Lastly he prays for confirmation of bail. Reliance is placed upon the case of *Ahmed Ali v. The State (2011 YLR 1735)*.

4. Mr. Noor Hassan Malik, Advocate files Vakalatnama on behalf of applicant Shahnawaz Channa in CrI. Bail Application No.S-196 of 2025 and submits that mere presence of applicant is transpired in the FIR, as alleged, otherwise he was not present and further he submits that no specific allegations were mentioned in the FIR that even committed or participated in theft/robbed material, so any recovery if effected, the same requires further inquiry as according to the details of robbed articles the same are huge in nature and it is not possible to be taken without the support of heavy vehicle and this aspect is missing in the FIR. Reliance is placed upon the case of *Bahadur v. The State and another (2025 SBLR Sindh 193) and 2020 SCMR 971*.

5. Mr. Ghulam Shabir Bhutto, files Vakalatnama on behalf of complainant and submits that role of applicant/accused Ali Murad is specifically transpired in the FIR of causing injury to PW Ayaz as he sustained injury which covered u/s 337F(v) and 337F(i) PPC. So far the enmity is concerned; he admitted. He further submits that role of Shahnawaz is concerned, the recovery is being effected and he has engaged for the commission of alleged theft as transpired in the FIR in purview of Section 382 PPC.

6. Syed Sardar Ali Shah, learned Additional Prosecutor General for the State submits that medical evidence in league with ocular set of evidence and on the day of incident the injured was appeared and he was examined by the Medical Officer and finally Medical Officer opined such kind of injury as JurhGhyr Jaifah Hashimah in nature which shows the fracture on middle finger. He submits that present applicants/accused cannot claim bail as matter of right or on the matter of grace.

7. I have heard the learned Counsel for the parties and have examined the material available on record.

8. Record reflects that one mobile phone was also mentioned in details of property and in order to ascertain the facts, the Investigating Officer, is under prime duty to follow the law of “Mobile Device Identification, Registration and Blocking Regulations, 2017” in which it is clearly mentioned that Lost/Stolen Mobile Devices shall be reported to the MNOs or Authority. Even in such Regulations, 2017 there is mechanism available in order to discover, so once device is involved then I.O, is duty bound in order to ascertain truth/real facts to follow the address legislation instead to Investigate the matter in mechanical manner, no doubt flaw of investigation does not change the verbatim of complainant but it is also responsibility of complainant to report before authority in order to recover such article by way of mechanism and Regulations, 2017. Further the incident was taken place on 12.02.2025 while complainant party approached before police on 13.02.2025 for getting letter. The record shows that the complainant is not injured. There is therefore no excuse for the delay in recording the statement immediately, while other witnesses were accompanied by injured. Further role of applicant Ali Murad is affected, the final medical certificate did not specify dislocation or non-dislocation of the injury, therefore the

case of applicant Ali Murad requires further enquiry. Regarding applicant Shahnawaz's case, in the absence of direct evidence of commission of theft/robbery, recovery is not useful for prosecution to keep present applicant behind bars indefinitely.

9. For what has been stated above, I am of the considered view that applicants/accused namely, Ali Murad Channa and Shah Nawaz Channa seem to have made out a case for the grant of pre-arrest as well post-arrest bail. Consequently, interim pre-arrest bail already granted to applicant/accused, namely, *Ali Murad Channa* vide order dated 21.03.2025 is hereby confirmed on the same terms and conditions while the post arrest bail application No.S-196 of 2025 in respect of applicant/accused Shahnawaz son of Ghulam Abbas is allowed. The applicant *Shahnawaz Channa* shall be released forthwith subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One lac) and PR bond in the like amount to the satisfaction of trial Court.

10. Needless to mention here that observation made herein above are tentative in nature and trial Court may not be influenced of the same in any manner and shall decide the case on its own merits as per evidence and the material ought to be made available before it.

11. Both bail applications stand disposed of in the above terms.

Office is directed to place signed copy of this order in connected captioned bail application.

J U D G E

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