

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Cr. Bail Application No. S-897 of 2024**

Date	Order with signature of Judge
<b>Applicants:</b>	<ol style="list-style-type: none"> <li>1. Ashiq son of Muhammad Yousif.</li> <li>2. Shahanwaz son of Muhammad Yousif.</li> <li>3. Qaim s/o Gula Hassan (shown in FIR as Arbelo.</li> <li>4. Khan Muhammad s/o Arban (shown in FIR as Khan)</li> <li>5. Muhammad Saleem son of Noor Muhammad (shown in FIR as Saleem).</li> <li>6. Ali Nawaz alias Nazal son of Qadir Bux.</li> <li>7. Saeed Khan son of Muhammad Punhal.</li> <li>8. Asif son of Imam Dino (shown in FIR as Imam Bux.</li> <li>9. Rabnawaz son of Ashique.</li> <li>10. Qalandar Bux son of Gul Hassan (Shown in FIR as Arbelo)</li> <li>11. Ali Nawaz son of Ghulam Jaffar.</li> <li>12. Meenhal Khan son of Arbab.</li> <li>13. Gul Bahar son of Muhammad Yousif (shown in FIR as Gullan)</li> <li>14. Rashid Ali son of Imam Dino (Shown in FIR as Imam Bux)</li> <li>15. hero alias Ghulam Hussain son of Arbelo alias Gul Hassan.</li> </ol> <p>All bycaste Gopang residents of village near GIMS Hospital Talula Gambat, District Khairpur.  Through Syed Imtiaz Hussain Shah Musvi advocate.</p>
<b>The State:</b>	Through Syed Sardar Ali Shah Rizvi, Additional Prosecutor General.
<b>Date of hearing.</b>	<b>07-03-2025.</b>
<b>Date of decision.</b>	<b>07-03-2025.</b>

**ORDER.**

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**Ali Haider 'Ada',J:-** Through this application, the applicants/accused named above seek pre-arrest bail in Crime No. 137/2024, registered at Police Station Gambat, offence u/s 353, 427, 147, 148, 149 PPC and later-on section 324 PPC is inserted in the challan. Prior to this applicants/accused filed pre arrest bail application before learned Sessions Judge Khairpur, which was

dismissed vide order dated 21-09-2024, hence they preferred the instant bail application.

2. Briefly the facts of the instant case are that applicant party on the grudge of FIR No. 117/2024 as well as 136/2024 assaulted upon the GIMS Hospital with intention that Faryad Ali who is complainant on those FIRs they will not rescued him, on which they broken the glassed as well as other material available at Hospital with their alleged weapons mentioned in the FIR. After completion of the investigation, formally the challan was submitted before the Magistrate having jurisdiction for further legal process.

3. Learned counsel for the applicants contends that applicants are innocent and they have falsely been implicated by the complainant in this case; that there is inordinate delay of about two hours in lodging the FIR, though the police station was situated at the distance of only 3/4 kilometers from the place of incident and such delay has not been explained; that FIRs bearing Crime No. 117/2024 and 136/2024 were recommended by I/O for disposal under "C" class and learned Magistrate was agreed with such recommendation and disposed of the same under "C" class; that no one was has been shown as injured in the FIR, even the staff of GIMS Hospital, Doctors etc were not examined by the investigating officer at the time of investigation, hence case against the applicants/accused requires further inquiry and interim pre arrest bail already granted to the applicants/accused may be confirmed.

4. On the other hand learned Additional P.G for the state has conceded that arguments advanced by learned counsel for the applicants and further submits that there is contra between the contents of FIR and contents of mashirnama of place of incident as the mashirnama does not show broken glass of GIMS Hospital.

5. Heard learned counsel for the parties and perused the material available on record.

6. Record reflects that there is inordinate delay of about 2 hours lodging the FIR, though the police station was situated at the distance of about only 3/4 Kilometers, inspite of that the incident was not reported promptly. During investigation, the Investigating Officer has not recorded the statements of staff of GIMS Hospital. There is conflict between the contents

of FIR as well as mashirnama of place of incident. Reliance is placed on the case reported in 1986 SCMR 1380, wherein it was held by the Apex Court that;

*“no useful purpose was likely to be served if bail of accused(respondent) was cancelled on any technical ground because after arrest he could again be allowed bail on the ground that similarly placed other accused were already on bail”.*

8. In view of above discussion, 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 the instant bail application is allowed and interim pre arrest bail already granted to the applicants/accused is confirmed on same terms and condition. Learned trial Court is at liberty to take action against the applicants/accused, if they misuse the concession of bail.

9. 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**