

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No.S-96 of 2025

Date	Order with signature of Judge
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For hearing of bail application

Mr. Mushtaque Ahmed Solangi, Advocate for the applicant.
Syed Sardar Ali Shah, Additional P.G for the State.

Date of Hearing: 24-02-2025
Date of Decision: 03-03-2025

ORDER

RIAZAT ALI SAHAR, J :- Through this bail application filed under Section 497 of the Code of Criminal Procedure, the applicants, Nasrullah, Abdul Razzaq, and Muneer Ahmed, all by caste Mahar, seek post-arrest bail in Crime No. 25 of 2023, registered at Police Station Sarhad-Ghotki, for offences punishable under Sections 324, 114, 147, 148, 149, 337A(i), 504, 337F(iii), 337A(ii), 337F(v), and 337L(ii) PPC. Their earlier bail plea was rejected by the learned trial Court vide order dated 20.01.2025.

2. According to the FIR lodged by the complainant, Qadir Bux, on 19.03.2023, the incident occurred on 16.03.2023, when he, along with his father, Muhammad Hassan, and his uncle, Muhammad Sanjar, was standing outside their house. At approximately 05:30 p.m., accused Nasrullah and others, armed with iron rods and *lathis*, allegedly formed an unlawful assembly in furtherance of their common object and arrived at the scene. It is alleged that accused Abdul Rasheed used abusive language, and upon his instigation, accused Nasrullah struck PW Muhammad Sanjar on the head with an iron rod. Accused Abdul Razzaq, with the intent to commit murder, allegedly inflicted *lathi* blows on Muhammad Sanjar's left arm, left thigh, and left hand. Accused Waseem, with a similar intent, allegedly struck Muhammad Hassan on the head with an iron rod. Accused Muneer Ahmed allegedly inflicted a *lathiblow* on Muhammad Hassan's left

arm, while accused Muhammad Aamir allegedly struck the complainant on the head and right elbow with a *lathi*. As the complainant party raised cries, prosecution witnesses arrived at the scene to intervene. However, accused Shoukat Ali allegedly struck Rajabuddin on the head with a *lathi* with intent to commit murder. Accused Khadim Hussain allegedly inflicted a *lathi* blow on the left eye and left hand of the complainant's relative, while accused Asghar Ali allegedly struck Muhammad Ishaque on the head. Additionally, accused Muhammad Ilyas allegedly struck the complainant's aunt, Mst. Afroz, with a *lathi*, while accused Khadim Hussain allegedly inflicted a *lathi* blow on the head and left ear of the complainant's sister, Mst. Khairan. The complainant and his family members raised cries and invoked the name of Almighty Allah and the Holy Prophet (PBUH), upon which the accused persons fled the scene. The injured victims were subsequently taken to the police station, from where they were referred to Taluka Hospital, Ghotki. Thereafter, doctors referred Muhammad Hassan and Muhammad Sanjar to Sukkur Hospital for further treatment. Following their medical treatment, the complainant and other injured persons appeared before the police and lodged the present FIR.

3. It is *inter alia* contended by the learned counsel for the applicants that they are innocent and have been falsely implicated in the present case. It is submitted that the applicants were initially granted pre-arrest bail in the said crime on merits; however, following the insertion of additional sections in the *Challan*, they were taken into custody. Subsequently, they moved an application for the grant of post-arrest bail, which was declined. The learned counsel further argued that all the offences invoked in the case do not fall within the prohibitory clause of Section 497 Cr.P.C, except for Section 324 PPC. He contended that the applicants have remained behind bars and that their custody is no longer required for further investigation. Additionally, there is an unexplained delay of three days in the lodgement of the FIR, which further casts doubt on the prosecution's case. In view of the foregoing, he prays for the grant of bail to the applicants. In support of his contentions, reliance has been placed on the case reported as *Waris Khan v. Khasdar alias Tor Khan and another* (2018 PCrLJ Note 196).

4. The learned Additional Prosecutor General (APG) has opposed the bail application on the ground that the applicants are specifically nominated in the FIR with a defined role in causing injuries to the complainant party. He contends that, given their direct involvement in the alleged offence, the applicants are not entitled to the concession of post-arrest bail. Accordingly, he has prayed for the dismissal of the bail application.

5. I have had the opportunity to hear the learned counsel for both parties and have meticulously scrutinised the material available on the record. Upon careful consideration of the arguments advanced and a thorough perusal of the case record, it emerges that the applicants were initially granted pre-arrest bail by the trial court on merits, as per the order dated 31.03.2023. However, following the addition of certain sections in the challan, they were served with a show-cause notice and were consequently taken into custody. Thereafter, the applicants sought post-arrest bail, which was declined through an order dated 20.01.2025. It is pertinent to note that the applicants have remained in judicial custody since the date of their arrest, and their continued detention is no longer required by the police for the purposes of further investigation. It is an established principle of law that pre-trial incarceration must not be exercised as a means of punishment. The Honourable Supreme Court of Pakistan, in the case of ***Tariq Bashir & 5 others v. The State (PLD 1995 SC 34)***, laid down the principle that bail is to be granted in cases where further inquiry is needed, and refusal should be an exception rather than the rule. It is also an admitted fact that the applicants have no prior criminal record, nor is there any indication that they have previously engaged in any criminal activity. As far as the applicability of Section 324 PPC is concerned, the matter remains to be determined during the trial upon the recording of evidence. It is a settled principle of law, as enunciated in ***Muhammad Tanveer v. The State (PLD 2017 SC 733)***, that in cases where the applicability of a penal provision remains doubtful and the accused's role is not categorically defined, bail cannot be withheld merely on speculative grounds. Given this factual and legal backdrop, the applicants' case prima facie falls within the ambit of *further inquiry*, as contemplated under subsection (2) of Section 497 Cr.P.C. The maxim *in dubio pro reo*—meaning "when in doubt, the benefit

must go to the accused"—is applicable in the instant matter. In light of the foregoing, the applicants are admitted to post-arrest bail, subject to their furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Lakh) each, along with a personal recognisance bond of the like amount, to the satisfaction of the learned trial court.

6. Needless to say, observations made hereinabove are tentative in nature. The trial court shall not be influenced by such observations while deciding the case on merits.

JUDGE

AHMAD