

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No.2759 of 2024

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| Date: | Order with signature(s) of the Judge(s) |
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For hearing of bail application.

20-03-2025

Mr. Nadeem Khan, advocate for Applicant/accused.
Mr. M. Rafiq Awan, Advocate for Complainant.
Mr. Qamaruddin Nohri, DPG for State.

Jan Ali Junejo, J.— The present post-arrest bail application under Section 497 Cr.P.C. has been filed by the Applicants/accused against the Impugned Order dated 22-10-2024 passed by the IIIrd Additional Sessions Judge, South Karachi whereby their bail application was dismissed. The prosecution alleges their involvement in the commission of offences under Sections 324, 337-A(i), 337-F(i), 427, 354, and 34 PPC, registered at P.S. Kalri, Karachi, vide FIR No. 188/2024.

2. As per the contents of the FIR lodged by Perveen Akhtar D/o. Muhammad Ashraf on 26-06-2024, she, along with her husband and sons-in-law, was shifting household items to the second floor of Ghosia Building, Daryaabad, Lyari, Karachi. During this process, an altercation ensued with Yaqub, who objected to their presence in the building. Subsequently, the three applicants/accused Akram, Aslam, and Afzal, who are co-owners of the building, also arrived and confronted the complainant over a property dispute. The

complainant's son, Asad, intervened, leading to a scuffle where the accused allegedly snatched his licensed pistol and pushed him off the second-floor balcony causing severe injuries. The complainant also alleged that Afzal slapped her, causing her gold earring to fall off. Her son-in-law, Arshad Mahmood, transported the injured Asad to Civil Hospital for treatment.

3. Learned counsel for the applicants contended that Section 324 PPC (attempted murder) does not apply, as no direct evidence suggests an intent to kill the victim. The accused had no weapons, while the victim himself possessed a licensed pistol, which he allegedly pointed at the accused. The incident arose from a property dispute, and the accused acted in private self-defense to prevent harm. Furthermore, the final charge sheet has been submitted, and co-accused Yaqub has already been granted bail. Lastly, the applicants have been in custody for over 120 days, and no further investigation is required. The learned counsel prayed for the grant of bail.

4. Conversely, the learned Deputy Prosecutor General (DPG), assisted by the complainant's counsel, opposed the bail application. It was submitted that the offence under Section 324 PPC is non-bailable and serious in nature, with sufficient evidence to establish prima facie guilt. They further argued that the accused played an active role in pushing the victim off the second floor, which

constitutes a deliberate act of violence. Given the nature of the allegations, they prayed that the bail application should be dismissed.

5. Upon perusal of the case record, it is evident that there exists a property dispute between the parties, which led to the altercation. The applicants were unarmed, and the victim himself possessed a pistol, indicating that the element of premeditated intent to kill is not conclusively established at this stage. Furthermore, the final charge sheet has been submitted, and no material evidence suggests that the Applicant are required for further investigation. The fact that co-accused Yaqub has already been granted bail further strengthens the applicants' case for parity and principle of rule of consistency. Moreover, Sections 337-A(i) and 337-F(i) PPC pertain to injuries that are bailable, and the applicability of Section 324 PPC requires further inquiry into the guilt of the present Applicants within the ambit of Section 497(2) Cr.P.C. In light of these considerations, continued incarceration of the Applicants is not justified. Reliance may be placed on the Case of ***Saeedullah and 2 others v. The State and another (2023 SCMR 1397)***, it was held by the Honourable Supreme Court of Pakistan that: *"As stated above, the complainant sustained injuries on non-vital parts of the body whereas more than 37 empties have been recovered from the place of occurrence, which prima facie shows that the accused had no intention to kill the complainant despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable*

in the case or not would be determined by the learned Trial Court after recording of evidence”.

6. In view of the foregoing reasons, the instant bail application stands allowed. Consequently, the applicants, namely Muhammad Akram, Muhammad Aslam, and Muhammad Afzal, are hereby granted bail, subject to each furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) along with a personal recognizance bond in the same amount, to the satisfaction of the learned trial Court. It is clarified that the observations made herein are purely tentative in nature and shall not influence the proceedings or determination of the case on merits at trial. These detailed reasons are of the short order announced on 20-03-2025.

JUDGE