

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.S- 446 of 2025

Applicant: Ali Gul through
Mr. Shabbir Ali Bozdar, Advocate

Respondent: State through Syed Sardar Ali Shah
Rizvi, APG

Date of hearing: **05.06.2025**

Dated of order: **05.06.2025**

ORDER

Amjad Ali Bohio, J: The applicant/accused, Ali Gul, seeks post-arrest bail in Crime No. 19 of 2025 registered at Police Station Khan Wahan under Sections 452, 324, 506(2), 337-A(i), 337-F(i), 337-H(ii), 114, 147, 148, and 149 PPC. His earlier bail application was dismissed by the Sessions Judge, Naushahro Feroze, vide order dated 21.05.2025. Hence, the present application has been filed before this Court.

2. As per the contents of the FIR, on the night of 06.04.2025 at about 11:00 p.m., the complainant, Khalid Hussain son of Jhanghal Khan Siyal, along with his brother Liaquat Ali, visited the residence of his nephew Naveed Ali in Village Khan Wahan, Taluka Kandiaro. While they were sitting with Naveed Ali and Naseem Ali, approximately ten armed individuals allegedly entered the house. The complainant claimed to have identified the accused persons, including the applicant Ali Gul (armed with an iron rod), Ali Sher (iron rod), Ali Khan (pistol), Ali Haider (all sons of Ali Gohar), Azeem (son of Muhammad Jumman, armed with an iron rod), Vakeel Siyal (pistol), and Gulzar (son of Ali Gul, armed with a lathi), while three others remained unidentified. It was alleged that the accused hurled abuses and issued threats to kill the complainant and his family, purportedly in retaliation for a previous dispute over the residence of the applicant's family. Ali Gul allegedly struck the complainant on the head with an iron rod with intent to kill. The co-accused Ali Khan, Azeem, Vakeel, and Gulzar, allegedly caused injuries to Liaquat Ali, Naveed, and Naseem. Ali Sher and others are said to have inflicted kicks and punches. Upon hearing cries for help, neighboring residents intervened, after which

the accused fled the scene while firing into the air. The injured parties were taken for medical treatment, and the FIR was lodged on 10.04.2025.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to prior enmity relating to a family dispute over residence. He argued that the four-day delay in lodging the FIR remains unexplained and raises doubt regarding the veracity of the allegations. It was further submitted that the prosecution's case appears exaggerated, particularly given the questionable identification during a night-time incident illuminated only by electric bulbs. Learned counsel also emphasized that all the prosecution witnesses are close relatives of the complainant, thereby diminishing the credibility of their statements. He pointed out the absence of any independent witnesses or recovery from the applicant. It was also argued that the role assigned to the applicant is similar to that of co-accused who have already been granted bail, hence the applicant is entitled to the same relief on the principle of consistency. Additionally, it was submitted that Section 324 PPC has been misapplied as the facts of the incident do not support its invocation. It was thus prayed that, given the need for further inquiry, the applicant be granted post-arrest bail.

4. Conversely, the learned Deputy Prosecutor General opposed the application, arguing that the applicant is specifically named in the FIR and is assigned a direct role in the commission of the offence. He submitted that the offence under Section 324 PPC is non-bailable and serious in nature, and that the applicant's alleged role in inflicting injuries on the complainant and his family justifies the denial of bail.

5. I have heard the learned counsel for the applicant and the learned Deputy Prosecutor General and have examined the material available on record.

6. A perusal of the record reveals that while the applicant is nominated in the FIR with a specific role, the nature and gravity of his alleged involvement must be examined with due care. The FIR attributes a principal injury to the applicant and other co-accused, allegedly inflicted with iron rods and other weapons. However, the medical reports do not

indicate that the injuries were of a grievous or life-threatening nature. The applicant's alleged act of striking the complainant with an iron rod, while not trivial, does not prima facie appear to constitute grievous hurt or to be of such severity as to warrant prolonged detention. The role attributed to the applicant is similar to that of co-accused who have already been granted bail by the learned Additional Sessions Judge, Kandiaro, vide order dated 08.05.2025. It may be noted that the earlier bail application was rejected by the learned Sessions Judge primarily on the basis that one injury was declared as Shujjah-e-Hashimah under Section 337-A(iii) PPC, which carries a maximum punishment of ten years and falls within the prohibitory clause of Section 497 Cr.P.C. However, it is well settled that the mere availability of a maximum sentence is not the sole criterion for attracting the prohibitory clause. The court must consider the nature of the injury, the intent of the accused, the surrounding circumstances, and the quality of the evidence while deciding bail applications. Furthermore, the unexplained four-day delay in the lodging of the FIR and the questionable identification of the accused under dim lighting conditions cast doubt on the reliability of the prosecution's version. No recovery has been effected from the applicant, and there is no material to suggest that he poses a flight risk or is likely to influence the prosecution witnesses. It is also trite law that at the bail stage, only a tentative assessment of the evidence is required.

7. In view of the above discussion, I am inclined to grant post-arrest bail to the applicant. Accordingly, the applicant Ali Gul is admitted to post-arrest bail, subject to furnishing a solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and a personal bond in the like amount to the satisfaction of the learned trial court.

8. Needless to say, the observations made herein are tentative in nature and shall not prejudice the case of either party during trial.

9. The instant Criminal Bail Application No. S-446 of 2025 stands disposed of in the above terms.

10. These are the reasons for my short order dated 05.06.2025.

JUDGE