

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.S- 472 of 2025

Applicant: Asadullah through
Mr. Atta Hussain Chandio, Advocate

Respondent: State through Mr. Muhammad Raza
Katohar, DPG

Complainant: Mehdi Dino, in person

Date of hearing: **04.06.2025**

Dated of order: **04.06.2025**

ORDER

Amjad Ali Bohio, J. – Applicant/accused Asadullah son of Nabi Bux, by caste Katohar, seeks post-arrest bail in FIR No.174/2025 registered at Police Station B-Section, Khairpur, under Sections 324, 147, 148 read with Section 149 PPC. His earlier bail application was dismissed by the learned Additional Sessions Judge-III, Khairpur, vide order dated 27.05.2025, hence this application.

2. The facts, as disclosed in the FIR, are that on 13.05.2025 at about 10:30 a.m., the complainant was present at his dairy shop located at Sarkhi More, along with his friends Ali Mardan and Khadim Hussain, when the present applicant Asadullah allegedly armed with iron rod came to the shop accompanied by co-accused Riaz Hussain armed with a knife, Muhammad Ali with a lathi, Ranjhan with a pistol, and two unknown culprits. It is alleged that the accused used abusive language and threatened to kill the complainant. It is alleged that thereafter, accused Riaz Hussain allegedly attacked upon the complainant with a knife on his left arm and the present applicant Asadullah allegedly struck him with an iron rod on his left arm while other accused also caused blows upon complainant and then he fell down. Upon the arrival of others at the scene, the accused allegedly fled. The complainant was taken to the Police Station, where he obtained a letter for medical treatment and was admitted to Civil Hospital Khairpur. He later approached the police again to lodge the FIR.

3. The learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to previous matrimonial

dispute, which is admitted in the FIR. He further contended that there was an unexplained delay of over 24 hours in lodging the FIR despite the Police Station being just 1 km away, which creates doubt as to the veracity of the prosecution's case. He argued that the medical certificate mentions Injury No.4 as Jurh Ghair Jaifah Damiyah, which is punishable under Section 337-F(i) PPC, a bailable offence. It was also submitted that co-accused Riaz Hussain and Ranjhan have already been granted pre-arrest bail by the learned trial Court, and no active role or weapon recovery is attributed to the applicant. The applicant has remained in custody since his arrest and is no more required for investigation as challan has been submitted. Learned counsel also drew attention to the contradictions between the FIR, the inspection memo of injuries, and the medical certificate. He added that, some injuries mentioned in the medical certificate, such as those on the dorsal aspect of the left hand and right hand, do not find mention in the FIR or mashirnama. This inconsistency further weakens the prosecution's case at the bail stage. The applicant is stated to have caused a single blow with an iron rod on a non-vital part of the body, and there is no evidence of intent to kill, which diminishes the applicability of Section 324 PPC in this case. He lastly contended that the case of applicant/accused requires further inquiry, therefore, the instant application may be allowed.

4. On the other hand, the learned Additional Prosecutor General duly assisted by the complainant, opposed the grant of bail, contending that the applicant is named in the FIR with a specific role of causing an injury with an iron rod and that the offence is serious in nature, falling within the purview of Section 324 PPC, which is non-bailable and reflects an intention to commit murder.

5. I have heard learned counsel for the applicant/accused, learned Additional Prosecutor General duly assisted by the complainant and have gone through the material available on record.

6. From tentative assessment of the material available on record, it appears that although the applicant is named in the FIR with an allegation of causing iron rod injury, the nature of the injury, as per the medical certificate, has been declared under Section 337-F(i) PPC which

is bailable. No firearm injury is attributed to the applicant, and the allegation of causing fatal or life-threatening harm is absent. As regards to other injuries are concerned, firstly, it has been observed that such injuries are not even specifically assigned to any accused and besides it found no place in the FIR and secondly it requires evidence. Furthermore, no repetition of blows or multiple injuries are attributed to the applicant, indicating lack of intent to kill, which diminishes the applicability of Section 324 PPC. There also exists material contradictions in the medical certificate and the inspection memo with respect to the location and nature of injuries which require deeper appreciation of evidence, which is not permissible at the bail stage. Co-accused Riaz and Ranjhan armed with knife and pistol have already been granted pre-arrest bail, while the applicant is in custody since his arrest on 16.05.2025, results in discriminatory treatment which the courts have consistently deprecated.

7. Furthermore, the background of admitted matrimonial dispute, the delay in FIR, and the absence of recovery from the applicant cast serious doubt as to the prosecution story, which makes the case of the applicant fall under the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C. The accused has remained in custody for a sufficient period, the investigation is complete, and the trial is yet to commence; hence, further incarceration would not serve any useful purpose.

8. In view of the above, I am of the considered opinion that the case against the applicant/accused calls for further inquiry, and he is accordingly admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (fifty thousand) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

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

10. The instant criminal bail application stands disposed of in the above terms.

Above are the reasons of my short order dated 04.06.2025.

JUDGE