

IN THE HIGH COURT OF SINDH AT SUKKUR

Cr. Bail Application No. S-393 of 2025

Applicant : Sajid Ali son of Muhammad Jam Solangi
Through Mr. Abdul Raheem Jamro, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 07.08.2025
Date of order : 07.08.2025

ORDER

Khalid Hussain Shahani J:- Applicant Sajid Ali, seeks pre-arrest bail in a case bearing Crime No. 169 of 2024 of Police Station Ranipur, registered under Sections 324, 337-D, 148 & 149 PPC.

2. The allegation against the applicant Sajid Ali, as set out in the FIR lodged by Ghulam Shabir, is that on December 28, 2024 at about 3:00 a.m., owing to a long-standing dispute over a water course, the applicant along with co-accused came armed, caused damage to the water course, and upon being questioned by the complainant side, the applicant, armed with a pistol, fired directly at Asad Ali, the nephew of the complainant, hitting him on the back with the bullet exiting from his chest. The accused then escaped from the scene. Consequent upon; case was registered inter alia on above facts.

3. The provisional and final medico-legal certificates issued by RHC Ranipur and GIMS Gambat reveal two lacerated penetrating firearm wounds, one on the back as the entrance wound and one on the chest as the exit wound, sustained by the injured on a vital part of the body and declared as *jurh-Jaifah* to be punishable up to ten years under Section 337-D PPC.

4. Learned counsel for the applicant, Mr. Abdul Raheem Jamro, argued that the FIR was lodged after an unexplained delay of two days despite the proximity of the police station to the place of occurrence, that the identification of the accused at night on the basis of torchlight was the weakest form of identification, that the parties were admittedly embroiled in litigation over a water course and the injury could have been self-inflicted to falsely implicate the applicant. It was further urged that all witnesses are related to the complainant, there is no independent corroboration, no bone fracture or

dislocation was found so Section 337-D PPC was misapplied, and as there was only a single fire alleged without repetition the applicability of Section 324 PPC was doubtful. Learned counsel submitted that, in these circumstances, the case called for further inquiry and that mala fide is evident from the conduct of the complainant and the police, who are allegedly bent on humiliating the applicant through arrest. Reliance was placed on the judgment reported as 2022 SCMR 624 to contend that pre-arrest bail should be granted in cases of doubtful identification arising from previous enmity to prevent misuse of arrest powers.

5. On the other hand, learned Deputy Prosecutor General Mr. Manzoor Ahmed, assisted by the complainant, opposed the application, contending that the applicant is specifically nominated in the FIR with a clear and direct role of firing at the injured with intent to commit his murder, the ocular account being fully corroborated by the medical evidence. It was submitted that the injury was firearm through-and-through on a vital part of the body, punishable under Section 337-D PPC, hence the matter squarely falls within the prohibitory clause of Section 497(1) Cr.P.C. The delay in registration of the FIR, it was argued, had been explained as the complainant's priority was to save the life of the injured, which could not be said to be fatal to the prosecution case. It was stressed that the medical evidence negates the possibility of the injury being self-suffered, and that no mala fide on part of the complainant or police has been shown. Reference was made to the principles enunciated in PLD 2015 SC 1394, PLD 1997 SC 347, 2020 SCMR 937, and 2021 SCMR 992, wherein it has been repeatedly held that pre-arrest bail is an extraordinary concession to be extended only when the applicant demonstrates mala fide or ulterior motive of the police in effecting arrest.

6. Before parting with this order, it is imperative to note that the bail before arrest is an extra ordinary relief which can be granted only in extra ordinary circumstances. I would also like to emphasize upon the landmark judgment of the Honorable Supreme Court of Pakistan in case of *Rana Muhammad Arshad Vs. The State* (PLD 2009 Supreme Court 427) wherein the Honorable Supreme Court of Pakistan was pleased to held that:

“(a) grant of bail before arrest is an extraordinary relief to be granted only in extraordinary situations to protect innocent persons against victimization through abuse of law for ulterior motives;

(b) pre-arrest bail is not to be used as a substitute or as an alternative for post-arrest bail;

(c) bail before arrest can not be granted unless the person seeking it satisfies the conditions specified through subsection (2) of section 497 of Code of Criminal Procedure i.e. unless he establishes the existence of reasonable grounds leading to a belief that he was not guilty of the offence alleged against him and That there were, in fact, sufficient grounds warranting further inquiry into his guilt;

(d) not just this but in addition thereto, he must also show that his arrest was being sought for ulterior motive, particularly on the part of the police; to cause irreparable humiliation to him and to B disagree and dishonour him;

(e) such a petitioner should further establish that he had not done or suffered any act which would disentitle him to a discretionary relief in equity e.g. he had no past criminal record or that he had not been a fugitive at law; and finally that;

(f) in the absence of a reasonable and a justifiable cause, a person desiring his admission to bail before arrest, must, in the first instance approach the Court of first instance i.e. the Court of Session, before petitioning the High Court for the purpose.”

7. Applying these principles to the facts and circumstances of the instant matter, it is manifest that the applicant's case fails to satisfy any of the enumerated conditions especially the malice or mala fide of the complainant for involvement of applicant in this case. The presence of serious injury corroborated through unimpeachable medical evidence militates against the notion of a frivolous or fabricated complaint. The claim of identification being inherently weak due to night-time observation is effectively counterbalanced by the consistency of the medical-evidentiary trail. No material or credible evidence has been produced to demonstrate any mala fide or ulterior motive on the part of complainant or law enforcement agencies. The delay in lodging the FIR, far from being unexplained, is reasonably justified by the exigency to save the injurer's life and thus does not detract from the credibility of the prosecution story.

8. It is evident that the applicant is specifically charged with having fired a pistol shot at the injured, causing penetrating firearm injuries on the chest and back, which are on a vital part of the body and punishable up to ten years. The medical evidence fully supports the version of the complainant, and the nature, trajectory, and site of injury are inconsistent with the plea of a self-inflicted wound. The delay in lodging the FIR stands plausibly explained

in the given circumstances. Moreover, the applicant's reliance on 2022 SCMR 624 is inapposite, as the cited case involved starkly different factual matrix with weak or no medical corroboration and palpable doubts surrounding the prosecution version. Here, the prosecution provides a clear ocular account supported by consistent medical evidence, which firmly negates the inference of further inquiry as the reasonable course at the bail stage.

9. It is well-settled that the Court at the bail stage is not required or permitted to undertake a full-fledged appreciation of evidence or engage in detailed assessment of guilt or innocence but only needs to take a tentative view based on material available on record. The serious nature of the offence under Sections 324, 337-D, 148, and 149 PPC, attracting the prohibitory clause under Section 497(1) Cr.P.C., strongly militates against the grant of bail. The extraordinary concession of pre-arrest bail must not be extended lightly in such cases unless compelling grounds satisfy the strict preconditions laid down by the apex court.

10. In light of the above discussion, it is found that the prosecution has established a prima facie case pointing towards the applicant's direct involvement in the commission of the offence causing grave injury. No credible evidence or material demonstrates the mala fide or ulterior motive requisite for the indulgence of bail before arrest. The delay in registration of FIR is satisfactorily explained and does not impair the prosecution's case. Therefore, the reliance placed by the learned counsel for the applicant on the principles of doubt and further inquiry cannot be sustained against the weight of consistent ocular and medical evidence. Accordingly, bail application stands dismissed and interim order dated May 14, 2025 recalled.

11. Needless to mention, the observations made above are tentative in nature and shall not effect the case of either party at trial.

J U D G E