

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Cr. Bail Appln. No. S-922 of 2024

Applicants : 1) Hyder Ali s/o Kareem Bux  
2) Akhtiar @ Kirir S/o Jhandal  
3) Achar s/o Imdad Hussain  
4) Sadam s/o Niaz  
5) Arbelo s/o Imdad Hussain  
6) Niaz s/o Imdad Hussain  
7) Aftab s/o Arbelo  
8) Sadia s/o Kareem Bux  
9) Mst. Ajeeba d/o Hussain Bux  
Through Mr. Ali Akbar Shah, Advocate

Complainant : Mst. Pervezan w/o Sohbat Ali, Jamro  
Through Syed Zaffar Ali Shah, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 25.09.2025  
Date of order : 13.10.2025

**ORDER**

**KHALID HUSSAIN SHAHANI, J.**– Applicant Hyder Ali and 8 others, seek anticipatory bail in a case bearing crime No.131/2024, for offence under Sections 324, 427, 452, 147, 148, 149 PPC and as per medical certificates under Sections 337-F(vi), 337-L(ii), 337-A(i), and 337-F(i) PPC, registered at Police Station Gambat.

2. The genesis of this case emanates from a complaint lodged by Mst. Parvezan Jamro alleging that on 23<sup>rd</sup> July 2024 at about 11:00 pm, the applicants along with co-accused persons, armed with pistols, iron rods, hatchets, knives, and *lathis*, forcibly entered her house at Village Meenhoon Khan Jamro due to a property dispute. According to the FIR, the accused fired pistol shots, caused injuries with various weapons to family members including Mst. Noor Jahan (iron rod blows to head and hand causing fracture), Tasawar Ali (hatchet blows to chest and head), Faraz Ali (iron rod blow to head), and others, with alleged intent to commit murder.

3. The record reveals a complex procedural history. The applicants initially filed a bail application which was withdrawn on 28th September 2024 due to amendments in sections following medical certificates. A fresh application was filed before the Additional Sessions Judge-IV, Khairpur, where interim pre-arrest bail was granted on 27<sup>th</sup> September 2024, but subsequently recalled and dismissed vide order dated 15th November 2024. The trial court found that sufficient material connected the applicants with the alleged offences falling within the prohibitory clause of Section 497(2) Cr.P.C.

4. Significantly, two co-accused, Mst. Sakeena Jamro and Kareem Bux Jamro, have already been granted post-arrest bail by the learned Additional Sessions Judge-III, Khairpur on 22<sup>nd</sup> August, 2024 and 5<sup>th</sup> September, 2024 respectively. Both orders were based on findings that the dispute arose from civil litigation regarding landed property, there was unexplained delay in FIR registration, all witnesses were relatives of the complainant, and the case required further inquiry.

5. A crucial development occurred when the applicants challenged the medical certificates before a Special Medical Board constituted by the Director General Health Services Sindh, Hyderabad. The Medical Board's comprehensive report dated 31<sup>st</sup> January, 2025 examined the injuries and largely confirmed the findings of the original medical certificates, particularly the fracture of Mst. Noor Jahan's *ulna* bone and other injuries sustained by victims. This report significantly strengthens the prosecution's case regarding the extent and nature of injuries.

6. Mr. Ali Akbar Shar, learned counsel has advanced multiple contentions in favor of bail. The primary arguments include false implication due to a landed property dispute, inordinate delay of one day in FIR registration, counter-version nature of the FIR (referencing Crime

No.72/2024 filed by co-accused Sakeena), and the granting of bail to co-accused persons. Counsel argues that the MLCs were obtained after significant delay and on court orders rather than immediately after the incident, suggesting fabrication.

7. The learned Deputy Prosecutor General and counsel for the complainant have opposed the bail application on grounds that this was a pre-planned attack involving multiple armed accused who caused grievous injuries to victims. The complainant's counsel has produced documentary evidence including photographs and medical reports supporting the prosecution case. The State argues that the applicants have misused the interim bail by failing to appear before the trial court, as evidenced by the order dated 17<sup>th</sup> March, 2025.

8. The Supreme Court of Pakistan in *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) established the foundational principle governing bail applications. The Court categorically held that offences not falling within the prohibitory clause of Section 497(1) Cr.P.C. (i.e., offences punishable with death, life imprisonment, or imprisonment exceeding ten years) attract the principle that grant of bail is a rule and refusal is an exception. The offences charged in the instant case do not fall within the prohibitory clause. Even Section 324 PPC (attempt to commit *qatl-e-amd*), which carries the highest punishment among the charged sections, does not exceed ten years imprisonment. Therefore, the legal framework mandates liberal consideration of bail applications.

9. The Supreme Court in *Mst. Ishrat Bibi v. The State through Prosecutor General Punjab and another* (2024 SCMR 1528) established the doctrine of parity in criminal cases, observing that where the incriminated and ascribed role to the accused is one and the same as that of the co-accused

then the benefit extended to one accused should be extended to the co-accused also, on the principle that like cases should be treated alike.

10. This principle finds its constitutional foundation in Article 25 of the Constitution of Pakistan, which guarantees equality before law. The Supreme Court has consistently held that differential treatment of similarly situated accused persons violates constitutional principles unless justified by compelling circumstances. A fundamental aspect of this case is its genesis in a landed property dispute between family members. The Supreme Court in *Muhammad Tanveer v. The State* (PLD 2017 SC 733) cautioned that when criminal cases arise from civil disputes, particularly those involving landed property, courts must exercise greater caution and consider whether the criminal law is being used to gain advantage in civil litigation. The existence of counter FIR No.72/2024 and the family nature of the dispute strongly suggests that this incident arose from an ongoing civil disagreement rather than premeditated criminal activity. Courts have consistently recognized that property disputes in rural areas often escalate to violence, but this context requires careful consideration of whether criminal prosecution serves genuine public interest or merely private vendetta.

11. The prosecution case relies primarily on testimony from interested witnesses who are relatives of the complainant. The Supreme Court has repeatedly emphasized the need for careful scrutiny of interested witness testimony. In *Abdul Majeed v. The State* (2016 SCMR 1455), the Court held that evidence from interested witnesses, while not inadmissible, require independent corroboration, particularly in cases arising from family disputes.

12. The delay of one day in FIR registration, though minimal, becomes significant when viewed in the context of a family dispute where witnesses had immediate access to police and no external impediments

existed to prompt reporting. The Medical Board report dated 31st January 2025 confirmed certain injuries, particularly the fracture sustained by Mst. Noor Jahan. However, the Supreme Court in *Dr. Abdul Hafeez v. The State* (2018 SCMR 595) established that medical evidence alone cannot be decisive if other factors favor the grant of bail, particularly in cases involving civil disputes that have taken a violent turn. The medical evidence must be evaluated within the broader context of the dispute, the nature of weapons used (primarily agricultural implements common in rural areas), and the absence of fatal injuries despite the alleged intensity of violence. The Supreme Court in *Tahira Batool v. The State* (PLD 2022 SC 764) established special protections for female accused persons, emphasizing that in cases of women, etc., as mentioned in the first proviso to section 497(1) Cr.P.C., irrespective of the offence category, bail is to be granted as a rule and refused as an exception.

13. This principle reflects Pakistan's constitutional commitment to gender equality and recognition of the vulnerable position of women in the criminal justice system. Female accused persons face unique challenges including social stigma, economic dependence, and limited access to legal resources. So far, injuries on the persons of all the injured are concerned, all are simple in nature and bailable, except one injury caused to Mst. Noor Jahan on left forearm is opined as *jurh ghyr-i-Jaifah munaqqilah* 337-F(vi) PPC, which may extend to seven years punishment as *ta'azir*, hence not fall within the ambit of prohibitory section 497(1) Cr.P.C and bail in such like cases is a rule and its refusal is an exception.

14. The doctrine of proportionality, established in *Muhammad Akram v. The State* (2019 SCMR 1847), requires that bail decisions be proportionate to the nature of allegations and individual culpability. The prolonged uncertainty faced by the applicants since July 2024, combined

with the civil dispute context, weighs heavily in favor of bail. The Supreme Court in *Muhammad Tanveer v. The State* (PLD 2017 SC 733) expressed concern about courts refusing bail on flimsy grounds in non-prohibitory cases, noting that this practice unnecessarily burdens both the public and the judicial system with excessive leave petitions. Liberal grant of bail in appropriate cases serves judicial efficiency and prevents clogging of superior courts with routine appeals.

15. After exhaustive examination of the legal framework, factual matrix, constitutional principles, and established jurisprudence, this Court concludes that the totality of circumstances compellingly favors the grant of anticipatory bail to all applicants. The convergence of multiple factors creates an irresistible case for bail that transcends individual considerations and reflects broader principles of constitutional justice and legal equity. The fundamental principle established by the Supreme Court in Tariq Bashir's case that grant of bail is a rule and refusal is an exception in non-prohibitory offences constitutes the bedrock of this determination. None of the charged offences fall within the prohibitory clause of Section 497(1) Cr.P.C., thereby creating a presumptive entitlement to bail that can only be overcome by exceptional circumstances. The prosecution has failed to establish any such exceptional circumstances that would justify departure from this fundamental principle. The constitutional guarantee of equality before law under Article 25 demands consistent treatment of similarly situated accused persons. The grant of bail to co-accused Mst. Sakeena Jamro and Kareem Bux Jamro in identical circumstances creates a constitutional imperative for similar treatment of all applicants. Differential treatment without compelling justification would violate the fundamental principle that like cases should be treated alike.

16. The genesis of this case in a family property dispute significantly alters the criminal law analysis. Rural property disputes often involve multiple family members, agricultural implements, and emotional confrontations that, while regrettable, do not necessarily indicate premeditated criminal conduct deserving prolonged pre-trial detention. The Supreme Court's consistent caution against criminalization of civil disputes applies with full force to this case. The prosecution case relies heavily on interested witness testimony from family members without substantial independent corroboration. While such evidence is not inadmissible, it requires careful scrutiny, particularly when combined with the minimal delay in reporting and the counter-version nature of the case. The medical evidence, though confirming injuries, does not independently establish the criminal intent or individual culpability of each accused.

17. The female applicants (Sadia and Mst. Ajeeba) are entitled to special consideration under the Supreme Court's jurisprudence in *Tahira Batool's case*, which mandates that female accused persons receive presumptive entitlement to bail unless overwhelming evidence justifies denial. Pakistan's commitment to gender-sensitive justice delivery requires recognition of the unique vulnerabilities faced by women in the criminal justice system. The constitutional guarantee of personal liberty under Article 9 requires that pre-trial detention be justified by compelling state interest. The nature of offences charged, the civil dispute background, the family context of the incident, and the absence of factors suggesting flight risk or evidence tampering make continued detention disproportionate to the alleged crimes. The Supreme Court's expressed policy against refusing bail on insufficient grounds in non-prohibitory cases serves both individual justice and systemic efficiency. Liberal grant of bail in appropriate cases prevents

unnecessary appeals, reduces pre-trial detention burdens, and maintains public confidence in the fairness of the criminal justice system.

18. The cumulative impact of all factors, the legal framework favoring bail, constitutional principles of equality, civil dispute context, evidentiary weaknesses, gender considerations, proportionality requirements, and judicial policy, creates an overwhelming case for granting bail to all applicants. Individual variations in alleged roles, while noted, do not overcome the fundamental presumption favoring liberty in non-prohibitory offences.

19. Given the above, the applicants have succeeded to make out case for bail. Accordingly, interim pre-arrest granted to the applicants is confirmed on same terms and conditions with directions to join the investigation/trial. It is emphasized that these observations are made for the limited purpose of bail consideration and shall not prejudice the trial court's independent assessment of evidence during trial proceedings. The trial court remains free to evaluate all evidence strictly on its merits without being influenced by these tentative observations.

**J D U G E**