

IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

Criminal Bail Application No.S-681 of 2025

Applicant	: Gul Sher son of Muhammad Yousuf Bhutto through Mian Taj Muhammad Keerio, Advocate
Complainant	: Imran Ali son of Razi Bhutto through Mr. Aijaz Ali Dahri, Advocate
The State	: Through Ms. Sana Memon, Assistant Prosecutor General, Sindh
Date of hearing	: 16.09.2025
Date of Order	: 16.09.2025

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, the Applicant Gul Sher S/o. Muhammad Yousif Bhutto seeks his release on post-arrest bail in Crime No.39 of 2025, registered at Police Station Mari Jalbani under sections 337-A(i), 337-F(i), 337-F(vi), and 506/2, PPC. The record reflects that the applicant first filed a pre-arrest bail application before the learned Sessions Judge, Shaheed Benazirabad, which was transferred to the Court of learned Additional Sessions Judge-VI, Sakrand, and the same was dismissed on merits vide order dated 29.11.2024. Thereafter, the applicant obtained interim pre-arrest bail from this Court, which was subsequently recalled and dismissed for non-prosecution. After his arrest, the applicant moved a post-arrest bail application before the Court of learned Civil Judge & Judicial Magistrate-I, Sakrand, bearing Bail Application No.735 of 2025, which was declined vide order dated 20.03.2025. He again approached the learned Sessions Judge, Shaheed Benazirabad, where the matter was transferred to the Court of learned Additional Sessions Judge-VI, Sakrand, and upon hearing, his post-arrest bail was dismissed on merits through order dated 30.04.2025. Having failed before the subordinate Courts, the applicant has now invoked the jurisdiction of this Court under section 497 Cr.P.C. by filing the instant Criminal Bail Application.

2. The brief facts, as narrated in the FIR, are that on 17.09.2024, at about night time, the complainant Imam Ali along with his relatives was present at his house when accused Gul Sher Bhutto, armed with a hatchet, and co-accused Ghulam Rasool Bhutto, armed with an iron rod, allegedly came and demanded Rs.100,000/- said to have been spent on funeral meal of the complainant's relative. Upon refusal, the accused persons allegedly assaulted the complainant and his party with their respective weapons, causing injuries to the complainant on his head, to his brother Ameer Bhutto, and to Mst. Satabi on her left arm. The injured were referred for medical treatment where the medico-legal examination confirmed the injuries, one of which to Mst. Satabi was declared as Ghayr-Jaifah Munnaqillah punishable under Section 337-F(vi) PPC. The accused allegedly extended threats of dire consequences before fleeing from the scene. After receiving treatment, the complainant approached the police and lodged the present FIR on 18.09.2024.

3. The record reveals that the applicant earlier approached the learned Sessions Court for pre-arrest bail which was dismissed on merits. He also obtained interim pre-arrest bail from this Court, which was subsequently recalled on account of non-prosecution. After his arrest, the applicant moved post-arrest bail before the learned trial Court, which was declined vide order dated 20.03.2025. Thereafter, another post-arrest bail application before the learned Additional Sessions Judge-VI, Sakrand, was dismissed on 30.04.2025. Hence, the present application.

4. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated due to enmity over matrimonial affairs and political rivalry; that the FIR was lodged with unexplained delay of one day; that all the witnesses are close relatives of the complainant and no independent witness has been cited; that the co-accused has already been granted pre-arrest bail; that the injuries do not fall within the prohibitory clause of Section 497 Cr.P.C.; and that the case requires further inquiry under section 497(2) Cr.P.C. Lastly, the learned counsel prayed for grant of bail.

5. Conversely, learned counsel for the complainant, assisted by the learned ADPP, has opposed the bail application on the ground that the applicant is specifically nominated in the FIR with a clear role of causing hatchet blows resulting in injuries corroborated by medical certificates; that ocular evidence is fully supported by medical evidence; that delay in lodging FIR has been explained; and that sufficient incriminating material exists on record to connect the applicant with the alleged offence. They prayed for dismissal of the bail application.

6. I have considered the arguments advanced by the learned counsel for the applicant, the learned counsel for the complainant, as well as the learned Assistant Prosecutor General representing the State, and have carefully examined the record available at this stage. Upon tentative assessment, it transpires that the applicant is specifically named in the FIR with a clear allegation of causing injuries with a hatchet to the complainant party. This role is duly corroborated by the medico-legal certificates brought on record. In particular, the injury sustained by Mst. Satabi has been declared as *Ghayr-Jaifah Munnaqillah* under Section 337-F(vi), PPC, which carries punishment of imprisonment extending up to seven years. At the stage of bail, only a tentative assessment of the available material is permissible, and a deeper appreciation of evidence is not warranted. The plea of mala fide and enmity raised by the applicant does not, at this stage, exonerate him, especially when his specific role stands supported by medical evidence. Likewise, the allegation of political victimization has not been substantiated through any cogent material and, therefore, cannot be made a valid ground for seeking bail. The delay of one day in lodging the FIR also does not appear to be fatal to the prosecution's case, particularly when the complainant party first had to secure medical treatment for the injured before approaching the police. Such delay, in the circumstances, stands reasonably explained. It is true that offences not falling within the prohibitory clause of Section 497, Cr.P.C., generally render grant of bail a rule; however, this principle is not absolute or without exceptions. The Hon'ble Supreme Court of Pakistan, in the case of **Muhammad Siddique v. Imtiaz Begum and 2 others (2002 SCMR 442)**, has categorically held that: *"After hearing the learned counsel for the petitioner at quite some length, we do not find any substance in this review petition, for, the offences under section 452, P.P.C. and section 18 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 are non-bailable, therefore, none can claim bail as of right in non-bailable offences even though the same do not fall under the prohibitory clause of section 497, Cr.P.C."*

7. In another case, **Haji Muhammad Nazir and others v. The State (2008 SCMR 807)**, the Hon'ble Supreme Court of Pakistan was pleased to observe that: *"It is true that offences for which petitioners have been charged entails punishment not more than five years, which also falls within the category of non-bailable offence, therefore, they are not entitled as a matter of right for release on bail, notwithstanding the fact that their case is covered under the non-prohibitory clause as defined under section 497, Cr.P.C. as it has been held in the case of Muhammad Siddique*

(*ibid*)". In another case, **Shameel Ahmed v. The State (2009 SCMR 174)**, the Hon'ble Supreme Court of Pakistan was pleased to observe that: "*With regard to the contention that the bail should always be granted in cases not falling within the domain of prohibition clause of proviso to section 497, Cr.P.C. it is observed that it is not a rule of universal application*". In such circumstances, there are sufficient grounds to connect the Applicant with the commission of the offence alleged.

8. In view of the above discussion, I am of the considered opinion that the applicant has failed to make out a case for grant of post-arrest bail. Accordingly, the instant bail application, being devoid of merits, stands dismissed. The observations made herein are purely tentative in nature, confined to the present order, and shall not prejudice the case of either party during the course of trial. The learned trial Court is directed to proceed with the matter expeditiously and in accordance with law. These are the detailed reasons for the short order announced on 16.09.2025.

JUDGE