

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1541 of 2025

Misri @ Haji Misri and 10 others.....Applicants/Accused

Versus

The State.....Respondent

Date of Hearing : 27.10.2025

Date of Short Order : 27.10.2025

For the Applicants : Ms. Dr. Raana Khan and Mr. Raham Ali Rind, Advocates.

For the complainant : Mr. Pardeep Kumar, Advocate.

For the State : Mr. Muhammad Noonari, D.P.G.

ORDER

TASNEEM SULTANA, J: Through this Criminal Bail Application, the applicants (1) Misri @ Haji Misri S/o Siddique, (2) Abdul Ghaffar S/o Muhammad, (3) Abdul Sattar S/o Muhammad, (4) Qurban @ Qurban Ali S/o M. Sharif, (5) Mashooque S/o sharif @ Muhammad Bux (6) Mumtaz S/O Siddique, (7) Ghulam Nabi S/O Siddique, (8) Abdul Qayum S/O Muhammad, (9) Ahsanullah S/O Saffdar (10) Noor Muhammad S/O Siddique and (11) Zulfiqar S/O Dodo seek pre-arrest bail seek confirmation of pre-arrest bail in Crime No. 19 of 2025 registered at Police Station Jhoke Sharif, District Sujawal, for offences under Sections 324, 337-A(i), 337-F(vi), 504, 147, 148, 149 and 354 PPC. Earlier same relief was granted to the applicants but was recalled by the 2nd Additional Sessions Judge Sujawal vide order dated 22.05.2025.

2. The brief facts of the prosecution case, as narrated in the FIR, are that on 13.04.2025 at about 1545 hours, the complainant Mst. Saran along with her son Shoaib were proceeding towards the house of Qasim near village Missri Lund when they were allegedly intercepted by Haji Misri S/o Siddique, Abdul Ghaffar, Muhammad, Qurban, Mashooque and Mumtaz, all armed with hatchet, iron rod and baton; that they abused and restrained the complainant from passing through the road and, upon protest, attacked them, causing injuries on head, finger and other parts of body; that thereafter Ghulam Nabi, Abdul Qayoom, Ahsan, Noor Muhammad and Zulfiqar

also joined the assault, whereafter neighbours intervened and rescued them, and both injured were taken to hospital for treatment.

3. Learned counsel for the applicants contended that the applicants have been falsely implicated due to admitted enmity between the parties; that the alleged incident occurred on 13.04.2025 while the FIR was lodged after delay of several days without any plausible explanation; that except general allegations of participation, no specific injury is attributed to most of the accused; that the injuries sustained are simple in nature and do not attract the ingredients of Section 324 PPC; that the dispute apparently arose over a pathway and not from any premeditated design to commit murder; that the applicants have cooperated with the investigation and there is no likelihood of their absconding or tampering with prosecution evidence.

4. Conversely, learned Assistant District Public Prosecutor assisted by learned counsel for the complainant opposed the confirmation of bail, contending that the applicants are specifically named in the FIR with assigned roles; that the ocular version is supported by medical certificates; and that no mala fide or ulterior motive has been shown on the part of the complainant or the police.

5. Heard. Record perused.

6. Before advertng to the merits, it is to be observed that at the stage of bail the Court does not undertake a detailed evaluation of evidence. The law requires only a *tentative assessment* that is, a bird's-eye view of the available material confined to examining whether reasonable grounds exist for believing that the accused is connected with the alleged offence or whether the case calls for *further inquiry*. This limited scrutiny is necessary because bail proceedings are not intended to determine guilt or innocence but to ensure that liberty is not curtailed where the prosecution evidence, viewed superficially, leaves room for doubt.

7. Keeping the above principle in view, it transpires from the FIR that the main allegation against applicant Haji Misri is of causing a hatchet blow on the head of the complainant; Abdul Ghaffar is alleged to have struck an iron-rod blow injuring her left index finger; and Qurban is said to have caused a hatchet blow on the head of Shoaib, the other injured. The remaining co-accused are alleged to

have participated by using rods and batons, thereby sharing a common object. The incident is admitted to have arisen out of prior enmity between the parties. The FIR was lodged after a delay of about three days, which has not been satisfactorily explained.

8. On such tentative appraisal, *prima facie* the medico-legal certificates reflect that the complainant sustained injuries falling under Sections 337-A(i) and 337-F(vi) PPC, whereas the injured Shoaib sustained injuries falling under Sections 337-F(ii) and 337-L(ii) PPC. Section 337-A(i) provides punishment up to two years, Section 337-F(ii) up to one year, Section 337-L(ii) up to two years, and Section 337-F(vi) up to seven years. Section 324 PPC prescribes punishment up to ten years' imprisonment, yet whether the ingredients of section 324 PPC are attracted in this case shall be determined by the trial Court after recording of evidence. The remaining offences under Sections 147, 148, 149, 504 and 354 PPC are punishable with imprisonment of less than ten years. Hence, at this stage, the offences alleged against the applicants do not fall within the prohibitory clause of Section 497 Cr.P.C.

9. The admitted hostility between the parties, pendency of cross-litigation, and delay in setting the law into motion make the prosecution version doubtful at this preliminary stage. These circumstances collectively bring the case within the purview of *further inquiry* as envisaged under Section 497(2) Cr.P.C. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail as of right. Reliance is placed on the case of *Salman Mushtaq & others v. The State through P.G Punjab and another* (2024 SCMR 14).

6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

The applicants have remained on interim pre arrest bail, have cooperated with the investigation, and there is no material suggesting any likelihood of their absconding or misusing the concession of bail.

10. In view of the foregoing discussion, by a short order dated 27.10.2025 interim pre-arrest bail granted to the applicants vide order dated 11.06.2025 was confirmed on the same terms and conditions and these are the reasons for the same.

11. The observations made herein are purely tentative in nature and shall not prejudice the case of either party at trial.

JUDGE

Ayaz Gul