

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-581 of 2025

Applicants : 1. Abdul Majeed
2. Dholan alias Waseem
Both sons of Gul Bahar Janwari (Now confined in District Prison Naushahro Feroze)
Through Mr. Habibullah Chandio Advocate

Complainant : Badaruddin son of Tharu Khan Janwari
Through. Abdul Samad Panhwar, advocate.

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 08.09.2025
Date of order : 08.09.2025

ORDER

Khalid Hussain Shahani, J.--- Applicants Abdul Majeed and Dholan @ Waseem seek their post arrest bail in a case bearing crime No.13/2025, for offences under Section 452, 337A(i), 337F(i), 337H (2), 337F(iv), 337L(ii), 147, 148, 149, 504 PPC, registered at Police Station Phull, District Naushahro Feroze.

2. The complainant, Badaruddin, alleged that the accused party trespassed into his house, caused injuries to inmates, damaged property and set fire to the hedge. Against applicant Abdul Majeed, allegation is limited to instigation, whereas applicant Dholan is alleged to have caused pistol-butt blows together with co-accused Mehar.

3. Learned counsel for the applicants submitted that both applicants are falsely implicated due to admitted enmity and mala fide is manifest by the belated addition of Section 436 PPC. He emphasized that co-accused Raja, Ajab, Imdad, Arbelo, Mehar and Shahid, on almost identical roles, have already been admitted to pre-arrest bail by the learned 1st Additional Sessions Judge/MCTC Naushahro Feroze vide order dated 21.06.2025; hence, under the settled principle of consistency, applicants stand entitled to similar treatment. He further stressed that except for broad allegations of instigation and general injuries, nothing specific has been attributed to them, thus their case squarely falls within the purview of further inquiry under Section 497(2) Cr.P.C.

4. Learned counsel for the complainant opposed the bail, submitting that the applicants are specifically nominated in the FIR, armed with deadly weapons, and their criminal antecedents show previous involvement in Crime Nos. 37/2024 and 41/2024 registered at the same police station. He contended that this conduct demonstrates their habitual criminal tendency, disentitling them to bail. Learned Deputy Prosecutor General, however, conceded the parity of the applicants with co-accused already enlarged on bail, and thus raised no objection.

5. I have considered the arguments and perused the record. As far as the allegation of instigation upon Abdul Majeed and infliction of pistol-butt blows by Dholan is concerned, both roles are not distinguishable from those of co-accused who are already admitted to bail. The rule of consistency, recognized in *Muhammad Tanveer v. The State* (PLD 2017 SC 733), requires that similarly placed accused not be treated with discrimination without justifiable reasons. As laid down therein, bail cannot be denied to one accused when co-accused on the same footing has been granted relief. On the issue of further inquiry, the dictum of *Tariq Bashir v. The State* (PLD 1995 SC 34) and *Zafar Iqbal v. Muhammad Anwar* (2009 SCMR 1488) is clear that when allegations require deeper scrutiny or there is doubt about the precise role assigned, the accused is entitled to the benefit of Section 497(2) Cr.P.C. Tentative assessment of the evidence against present applicants shows that their cases do not stand on any stronger footing than those of co-accused who have already obtained bail.

6. The contention of the complainant regarding their previous involvement also requires consideration. It is a recognized principle that mere involvement in other criminal cases, without conviction, is not in itself a ground to deny bail, unless the prosecution demonstrates a pattern of misuse of concession once granted. Mere pendency of other cases cannot strip an accused of his right to bail in a case falling within the ambit of further inquiry or where rule of consistency squarely applies. At the stage of bail, unless there is concrete material showing misuse of earlier concession or repeated analogous conduct

during liberty, a mere allegation of past record cannot substitute for cogent reasons to deny statutory relief.

7. It is noteworthy that the challan has been submitted, custody of the applicants is no longer required for investigative purposes, and continued incarceration would amount to punishment without trial. The allegations against the applicants, in the circumstances, make their case one of further inquiry, especially in light of the fact that their co-accused have already been admitted to bail.

8. In view of the above discussion, fortified by the principles laid down in cited case laws prima facie the case of applicants stand on equal footing with co-accused already on bail, their cases fall within the domain of further inquiry, and mere reference to alleged previous involvements does not amount to a valid ground for denial of bail at this stage.

9. Accordingly, the applicants Abdul Majeed and Dholan @ Waseem are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- each and P.R. bond in the like amount to the satisfaction of learned trial Court. The observations made herein are tentative and strictly confined to the bail proceedings; they shall not prejudice either party during trial.

J U D G E