

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS
Crl. Bail Application No.S-32 of 2025

Applicant/ accused: Rehan Sarwar s/o Muhammad Sarwer Arain
Through Mr. Abdul Hafeez Mari, Advocate

The State: Through, Mr. Ghulam Abbas Dalwani, D.P.G.

Complainant: Faqeero s/o Bugro Meghwar
Through Mr. Afzal Kareem Virk, Advocate

Date of hearing: 03.06.2025

Date of Order: 03.06.2025

ORDER.

Jan Ali Junejo, J. - The applicant/accused, Rehan Sarwar, has filed the present pre-arrest bail application following the dismissal of his earlier application bearing No. 40/2025 by the learned Additional Sessions Judge-II, Mirpurkhas, vide order dated 31.01.2025. The current proceedings stem from F.I.R./Crime No.02 of 2025, registered at Police Station Digri under Sections 324, 506(ii), 337-F(i), and 504 of the Pakistan Penal Code (P.P.C.). Ad-interim pre-arrest bail was granted to the applicant by this Court vide order dated 07-02-2025.

2. Briefly stated, the facts as narrated in the FIR reveal that the complainant, a laborer by profession, has had a protracted and contentious relationship with the applicant spanning approximately four to five years. The underlying dispute primarily pertains to allegations of encroachment on the applicant's property, which ultimately led the complainant to file a formal complaint before the competent authorities. It is alleged that on 09.01.2025, at approximately 12:20 PM, the applicant arrived at the complainant's residence, hurled abusive language, and fired a single shot from a single-barrel firearm at the complainant's party with intention to commit murder. The gunshot struck the complainant's cousin, Habu Meghwar, on the left leg. The injured was initially provided medical assistance at Taluka Hospital Digri and was subsequently referred to

Hyderabad for further treatment. Following the incident, the complainant lodged the FIR, asserting that the applicant had not only issued criminal threats but also caused physical injury with intent to commit murder.

3. The learned counsel for the applicant contends that the applicant has been falsely implicated with malicious intent and ulterior motives stemming from the ongoing property dispute. It is further argued that Sections 324 and 506(ii), P.P.C. have been misapplied, as the injury sustained is on a non-vital part of the body and the firing was a single shot, not amounting to voluntarily causing hurt by dangerous means under Section 324. The learned counsel also highlighted that the applicant is neither a previous convict nor a dangerous or desperate person and that the police have been influenced to disgrace and humiliate the applicant. Thus, the case qualifies for further inquiry under Section 497(2), Cr.P.C., and pre-arrest bail should be confirmed.

4. The learned counsel for the complainant vehemently opposed the bail application, asserting that the applicant is specifically named in the FIR and that the witnesses have supported the complainant's version of the incident. The injury to the complainant's cousin is a direct result of the gunshot fired by the applicant. The counsel contended that the applicant is not entitled to the extraordinary relief of pre-arrest bail at this stage, especially given the seriousness of the allegations. Lastly, the learned counsel prayed for dismissal of bail application.

5. The learned Deputy Prosecutor General Sindh supported the complainant's contentions and urged the Court to dismiss the bail application. It was emphasized that the offences under Sections 324 and 506(ii), P.P.C. are serious in nature, non-bailable, and the case does not fall within the purview of the prohibitory clause under Section 497(1), Cr.P.C. Lastly, the learned DPG prayed for dismissal of the bail application.

6. I have undertaken a careful and tentative assessment of the material available on record, including the FIR, the submissions advanced by the learned counsel for both parties, and the medical evidence pertaining to the nature of the injuries sustained by the injured party, which is permissible at the bail stage under settled principles of law. From the record, it is evident that the alleged injury caused by the firearm is located on the left leg of the injured, a non-vital part of the body. Notably, the incident involved a single shot, with no repetition of firing. This aspect significantly diminishes the applicability of Section 324, P.P.C., as the essential ingredients of voluntarily causing hurt by means of a dangerous weapon are not conclusively established at this stage. As regards the offence under Section 506(ii), P.P.C., the allegation of criminal intimidation, in the given factual context, does not attract the prohibitory clause of Section 497(1), Cr.P.C., and therefore does not legally bar the grant of bail. The existence of a longstanding civil dispute between the parties and the pendency of related proceedings before the Anti-Encroachment Tribunal lend further weight to the possibility that the FIR may have been lodged with ulterior motives. This dimension introduces an element of malice, thereby necessitating judicial caution. In the case of *Abdul Rehman v. The State and others (2023 SCMR 2081)*, the Honourable Supreme Court of Pakistan clearly delineated the principles governing the grant of pre-arrest bail. It is the stance of the applicant that the land in question is owned and possessed by him and a civil litigation regarding the same is also pending before the court of competent jurisdiction. It seems that the primary dispute between the parties is with regard to the ownership/ possession of the land in question. In this view of the matter, the possibility of false implication just to pressurize the applicant's side to gain ulterior motives cannot be ruled out. In view of the foregoing circumstances, the case clearly falls within the purview of Section 497(2), Cr.P.C., attracting the principles of further inquiry. Accordingly, the applicant has made out a case meriting the grant of pre-arrest bail. In this regard, reliance may also be placed

on the judgment of the Honourable Supreme Court of Pakistan in ***Jamaluddin and another v. The State (2023 SCMR 1243)***, wherein it was held that: “*The complainant and the injured PW received injuries on the non-vital parts of the body and the petitioners did not repeat the fire despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable in the case or not would be determined by the learned Trial Court after recording of evidence. As far as the question which requires the attention of this Court is that petitioner Jamaluddin has been granted ad interim pre-arrest bail by this Court whereas the other petitioner Rabail has filed petition claiming post-arrest bail. As far as the principle enunciated by this Court regarding the consideration for grant of pre-arrest bail and post-arrest bail are entirely on different footings is concerned, we have noticed that in this case both the petitioners are ascribed the same role. For the sake of arguments if it is assumed that the petitioner enjoying ad interim pre-arrest bail is declined the relief on the ground that the considerations for pre-arrest bail are different and the other is granted post-arrest bail on merits, then the same would be only limited upto the arrest of the petitioner Jamaluddin because of the reason that soon after his arrest he would be entitled for the concession of post-arrest bail on the plea of consistency*”.

7. For the reasons discussed hereinabove, the pre-arrest bail earlier granted to the applicant/accused, Rehan Sarwar, is hereby confirmed, subject to the same terms and conditions as previously imposed. It is, however, clarified that the observations made in this order are purely tentative in nature and are confined solely to the adjudication of the present bail application. These findings shall not influence or prejudice the case of either party at the stage of trial or final adjudication on merits. Accordingly, the bail application stands allowed.

JUDGE