

**IN THE HIGH COURT OF SINDH, SUKKUR BENCH, SUKKUR**  
**Criminal Bail Application No.S-409 of 2023**

Applicant: Sajjad Ali s/o Azizullah, through  
Mr. Rukhsar Ahmed M. Junejo,  
Advocate.

Complainant: Shahid Ali s/o Mumtaz Ali  
through Mr. Shafique Ahmed  
Leghari, advocate

State: Through Mr. Khalil Ahmed  
Maitlo, Deputy Prosecutor  
General

Date of hearing: 02.10.2023  
Date of decision: 02.10.2023

**ORDER**

**Arbab Ali Hakro, J:** Through this bail application, the Applicant Sajjad Ali s/o Azizullah seeks his pre-arrest bail in Crime No.144 of 2022, registered at P.S Rohri, District Sukkur, for an offence punishable u/s 324, 147, 148, 149, 504, 337-A(i), 337-F(i) PPC. His earlier bail application was declined by learned Additional Sessions Judge-V, Sukkur, vide order dated 07.06.2023, hence this application.

2. As per FIR, the allegations against the present applicant/accused are that on the day of the incident, i.e. 17.09.2022, applicant, along with co-accused Sohail Ahmed and Amjad Ali armed with a pistol, iron rod and stick, respectively, caused kicks, fists and laathi blow to the Complainant, and his brother Siraj Ali, on their faces and other parts of the body; that on the cries of the complainant party, villagers got attracted, and when applicant saw them coming, he made a straight fire from his pistol, which hit Complainant's brother Siraj Ali on the feet and legs, hence this FIR.

3. Learned Counsel for the applicant, at the very outset, submits that there is an inordinate delay in lodgment of FIR, which attracts due deliberation and consultation, and no plausible or cogent reason

has been furnished by the prosecution to that regard; that there is conflict between ocular and medical evidence; that there is severe malafide, and ulterior motives on the part of Complainant party who has implicated the present applicant accused with the commission of the offence; therefore applicant is entitled to concession of bail. In support of his contention, he relied upon the case of *Muhammad Imran vs The State and others (2023 SCMR 1152)* and *Abdul Rehman alias Muhammad Zeeshan vs. The State and others (2023 SCMR 884)*.

4. On the other hand, learned Counsel for the Complainant contends that initially applicant approached this Court by filing Cr. Bail Application No.S-517 of 2022, which was dismissed vide order dated 06.03.2023, and subsequently said order was also assailed before Supreme Court, in Criminal Petition No. 243 of 2023, where Counsel for the petitioner did not press that petition resultantly the same was dismissed as not pressed vide order dated 30.03.2023. He further contends that a direct role of causing firearm injury has been attributed to the present applicant; medical report also supports the ocular versions. There is no fresh ground whatsoever has been agitated by learned Counsel for the applicant in his arguments, hence the applicant does not entitle to the concession of bail. Lastly, he prayed for dismissal of bail application.

5. Learned DPG, while adopting the arguments of learned counsel for the applicant, contended that prior to this, the applicant had filed pre arrest bail before this Court and the same was declined on merits; that the applicant also filed Criminal Petition No. 243 of 2023, before apex court which Counsel for the petitioner did not press that petition resultantly the same was dismissed as not pressed vide order dated 30.03.2023. The contradictions, as pointed out by learned Counsel, require deeper appreciation. It is argued that second/subsequent bail

application is not maintainable, by repeating/agitating similar grounds, does not entitle the applicant to concession of bail except there is fresh ground. In support of his contention, he has relied on the case of *Shahbaz Akmal vs The State through Prosecutor General Punjab, Lahore and another (2023 SCMR 421)*. Lastly, he prayed for the dismissal of the bail application.

6. I have heard Counsel for the parties and learned Additional P.G. and have gone through the material available on record with their assistance.

7. It is an admitted fact that the occurrence has taken place in broad daylight, and there is no chance of any misidentification, primarily when the parties are known to each other. The significance of a murderous assault lies in the deliberate targeting and infliction of harm upon both vital and non-vital portions of the victim's body. According to Section 324 of the Pakistan Penal Code (PPC), there is no differentiation made between vital and non-vital parts of the human body. Once the trigger is pressed and the victim is successfully targeted, the element of "intention or knowledge," as outlined in Section 324, PPC, becomes evident. The trajectory of a bullet is not influenced or directed by the assailant's choice, and they cannot use poor marksmanship as a justification for leniency during the bail stage. In this context, I have been guided by the Apex Court in the case of **Sheqab Muhammad vs. State (2020 SCMR 1486)**.

8. Another important aspect of the present bail application is whether it falls within the ambit of section 324 or not. The applicant was accused of actively engaging in an incident that clearly falls under the offence of mischief as defined in section 324 of the Pakistan Penal Code, 1860. This offence carries a punishment of imprisonment for up to ten years. The application of section 497 of the Code, which

prohibits circumvention of the bar on bail in cases where there are reasonable grounds to believe the accused is guilty, is relevant in this case. In this context the reliance can be placed in the case of **GHAZAN KHAN vs Mst. AMEER SHUMA and another (2021 SCMR Page-1157)**.

9. It is evident from the record that an earlier bail application filed by the present applicant has been dismissed on merits, and there is no fresh ground whatsoever that has been agitated or argued on behalf of the applicant, which entitled him to concession of bail.

10. At the bail stage, only a tentative assessment is to be made, and deeper appreciation is not permissible as pointed out by the counsel for the applicant. There is sufficient material on record which *prima facie* connects the applicant/accused with the commission of the offence. The offence falls within the prohibitory clause of section 497, Cr.P.C. In this view of the matter, I am not inclined to grant pre-arrest bail, which can only be granted in exceptional circumstances; therefore this Criminal bail application is dismissed, and order dated 19.06.2023, whereby the applicant was admitted on interim pre-arrest bail, is hereby recalled. The case law cited by the defence counsel is not applicable to the facts and circumstances of the case.

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

JUDGE