

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 977 of 2025

Applicant : Muhammad Asif son of Muhammad Ali,
Through Mr. Israr Ahmed Abro, Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl. P.G along
with Inspector Muhammad Altaf and SIP
Ghulam Mustafa.

Date of hearing : 21.05.2025

Date of order : 26.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Muhammad Asif seeks pre-arrest bail in a case bearing crime No.161/2025 registered at P.S. Gulberg, Karachi, for offence under Sections 324/34 PPC. His earlier plea for similar relief was declined by the learned IInd Additional Sessions Judge, Karachi Central vide order dated 11.04.2025.

2. The complainant Syed Ali Ashar, in his statement recorded under Section 154 Cr.P.C, alleged that on 28-03-2025 at about 8:00 PM, while he was sitting with companions near the railway track, the present applicant Muhammad Asif, accompanied by others, arrived and upon being confronted about prior action by Rangers, opened fire upon the complainant. Two shots reportedly struck the complainant on his right leg. The incident allegedly caused panic in the area. It is further alleged that the applicant and others fled from the scene while continuing to fire.

3. Learned counsel contended that the FIR is lodged with mala fide intent, owing to personal enmity and existing animosity between the parties. It was argued that the complainant is a dismissed police official with a reputation of extortion and false implication, particularly against members of the Bengali community in the area, and several complaints have been lodged against him. Counsel submitted that the complainant's allegation of having suffered two gunshot injuries followed by running away is implausible, and the medical report shows blackening on the wound, indicative of a close-range or self-inflicted injury. Further, counsel emphasized that no empties or bloodstained soil were recovered from the

scene despite claims of firing, and no damage to property or injury to others occurred. One purported eyewitness, Umar Farooq, has submitted an affidavit disowning the prosecution version. Contradictions between the FIR and 161 Cr.P.C. statements were also highlighted to argue for further inquiry.

4. Learned APG for the State opposed the grant of bail and argued that the applicant is specifically named in the FIR with a direct role assigned of having fired upon the complainant, causing Jurh Ghayr Jaifah injury. He submitted that two eyewitnesses support the complainant's version and the CDR record corroborates presence of the accused at the relevant location and time. He further argued that no evidence has been produced by the applicant during investigation to support the claim of false implication or mala fides.

5. The primary contention raised on behalf of the applicant is that the complainant has a tainted background and a motive to falsely implicate him in a concocted case, and that the injuries are self-inflicted or stage-managed. While this is a line of defense often encountered at trial, what remains decisive at this stage is whether prima facie mala fides or ulterior motive is discernible on the face of the record. It is correct that the medical report refers to blackening around the injury, which is consistent with close-range discharge; however, no material has been brought on record during investigation to demonstrate that the injury was fabricated or self-inflicted. As rightly pointed out by the learned APG, the applicant has neither moved for constitution of a medical board nor raised any objection to the MLO's findings before the Investigating Officer to warrant serious consideration of such a plea at this pre-arrest stage.

6. The plea of false implication must be supported by some contemporaneous material, such as prior complaints, civil disputes, or litigation, or other documentation provided during the investigation. However, in the present case, the alleged complaints against the complainant or press clippings about his conduct have not been shown to have been submitted to the Investigating Officer during the investigation. Therefore, they remain untested and of little assistance at this stage. False implication is not spurred out from the record. The concession of pre-arrest bail is an extra ordinary relief, which is meant only for innocent persons where the intended arrest of an accused is found to be actuated with mala

fide on part of the complainant or the police. No malice or ulterior motive on part of the complainant/police to falsely implicate the applicant has been observed, therefore, he is not entitled to the extra-ordinary relief of pre-arrest bail as claimed for. Reliance is placed on cases reported as "Gulshan Ali Solangi and others v. The State through P.G. Sindh" (2020 SCMR 249). In this respect, reliance is further placed in case reported as "Ahtisham Ali v. The State" (2023 SCMR 975), it has been held that:-

"It is well settled exposition of law that the grant of pre-arrest bail is an extraordinary relief which may be granted in extraordinary situations to protect the liberty of innocent persons in cases lodged with, mala fide intention to harass the person with ulterior motives. By all means, while applying for pre-arrest bail, the petitioner has to satisfy, the Court with regard to the basic conditions quantified under section 497 of the Code of Criminal Procedure, 1898 ("Cr.P.C") vis-a-vis the existence of reasonable grounds to confide that he is not guilty of the offence alleged against him and the case is one of further inquiry."

7. From the record, the role of the applicant is direct and specific. He is assigned the act of firing twice at the complainant, which caused Jurh Ghayr Jaifah injury, and the version is supported by eyewitnesses and the CDR record, which lends further corroboration to his presence at the scene. While it is true that no empties or bloodstained soil was collected from the scene, and injury was not on a vital part, the presence of ocular testimony and medical corroboration currently outweigh these investigative lapses. Further, there is no inordinate delay in lodging FIR, nor is it a case where the identity of assailants is shrouded in doubt. The mere non-collection of empties or the absence of blood at the scene may point to deficiencies in investigation but not necessarily to false implication.

8. In view of the above discussion, I am not persuaded that the applicant has been falsely implicated at the spur of the moment or due to malafide or ulterior motives as would attract judicial protection under Section 498 Cr.P.C. The material brought on record does not render the prosecution case as requiring further inquiry under Section 497(2) Cr.P.C at this stage. Accordingly, the pre-arrest bail application is dismissed and interim order dated 15.04.2025 recalled. Needless to say that the above assessments are tentative in nature and shall not affect the merits of trial.

J U D G E