

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.635/2025

Applicant : i. Umair Zaman Khokhar
ii. Abdur Rehman Aziz Khan
iii. Anas
Through Mr. Mubashir Ahmed Mirza, Advocate

Respondent : The State
Through Mr. Qamaruddin Nohri, DPG Sindh
duly assisted by Mr. Dur Muhammad Shah
Advocate for the Complainant.

Date of short order : 16.04.2025

Date of reasons : 03.05.2025

REASONS

KHALID HUSSAIN SHAHANI, J. – Through the instant application, applicants Umair Zaman Khokhar, Abdu Rehman Aziz Khan and Anas seeking pre-arrest bail in a case bearing Crime No.68/2025 for offence under section 147, 148, 149, 506-B, 342, 337-A(i), 504, 365 PPC. Earlier bail plea of applicants was declined vide order dated 06.03.2025 by the learned Additional Sessions Judge-III Karachi South.

2. Concisely, the facts of the prosecution case are that complainant Hamidullah along with Muhammad Uzaif Gagan (owner of Gagan Textile) and friend Bilal went to Pranzo Restaurant. After having dinner at about 04:00 a.m. when returning to home were intercepted by the applicants, co-accused Shaban and 9 to 10 unidentified individuals. It is alleged that accused used abusive language, on show of weapons took them to a bungalow, maltreated, illegally confined them for 5 to 6 hours and extending threats for dire consequences released them at about 10:00 a.m. Consequent upon; case was registered inter-alia on above facts.

3. Learned advocate argued that the applicants are innocent and falsely implicated in this case with malafide intention and ulterior motives; there is delay of 05 days in lodging of the FIR; no direct or indirect evidence against the applicants was available with the prosecution to link the applicants with commission of alleged offence; no specific role of applicants was highlighted to show the active participation; the source of knowing the name of applicants are not mentioned in the FIR; all the sections mentioned in FIR are bailable, except section 506-B PPC which shall be determined at the time of trial. He lastly prayed for confirmation of bail.

4. On the other hand, the learned DPG, assisted by the learned advocate for the complainant, presented several compelling arguments in favor of the application for declining of bail. Learned advocate for the complainant argued that the accused are actively involved in commission of non bailable offences, therefore are not entitled for relief sought.

5. Record reflects that the alleged incident took place on 26.01.2025, while the FIR is lodged on 30.01.2025 with delay of 04 days without disclosing the reason for such delay. There is a personal vendetta between parties, therefore the exaggeration of the facts and false implication cannot be ruled. All the sections in this case are bailable, except Section 506-B PPC; therefore, yet to be determined at the time of trial, whether the applicants have issued threats of dire consequence and ingredients of such Section attract to the facts of the case. Guilt or innocence would be determined after full fledged trial. Purpose of pre-arrest bail is to protect innocent from abuse process of law and victimization at the hands of local police. Reliance is place on the case of *Rana Muhammad Arshad Vs. The State* (PLD 2017 SCMR 427).

6. Furthermore, the applicant are not shown to be a flight risk, have joined the investigation and did not misuse concession of interim bail. There is no allegation of tampering with prosecution witnesses or evidence. The offences does not fall within the ambit of prohibitory clause of Section 497(1), Cr.P.C and bail in such cases is a rule and its refusal an exception. As held in *Rana Muhammad Arshad* (supra), protection of pre-arrest bail can be extended where mala fide is apparent. The principle laid down in *2017 SCMR 733* and *PLD 1995 SC 34* further reinforces that in non-prohibitory cases, bail is to be granted as a rule unless there are exceptional circumstances justifying denial.

7. In light of the foregoing discussion and the material placed on record, the applicants have successfully established a case meriting the confirmation of pre-arrest bail. Accordingly, by means of a short order dated 16.04.2025, the interim pre-arrest bail granted to the applicant was confirmed. The reasons recorded hereinabove constitute the rationale for the said short order.

J U D G E