

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Crl. Bail Application No.S-789 of 2025

Crl. Bail Application No.S-885 of 2025

Applicants: Muhammad Khan son of Ghulam Nabi and Adnan Hussain son of Khadim Hussain Lund through Mr. Nihal Khan Lashari, advocate.

For Complainant in
B.A. No.S-885 of 2025: Mr. Naveed Hussain Umrani, advocate.

For the State: Mr. Siraj Ahmed Bijarani, A.P.G for the State along with 1.0 ASI Saifullah Jamali and I.O ASI Murad Ali Rind.

Date of hearing: 02-09-2025

Date of Order: 02-09-2025

ORDER

Jan Ali Junejo, J. – This common order shall dispose of the captioned connected bail applications arising out of Crime No.39 of 2025 registered at Police Station Piyaro Lund, District Tando Allahyar, in respect of offences under Sections 506(ii), 334, 337-A(i), 337-F(v), 337-F(vi), 504, 34, 109 PPC. Applicant Muhammad Khan seeks post-arrest bail in Cr.B.A.No.S-789 of 2025, while applicant Adnan Hussain seeks confirmation of pre-arrest (interim) bail in Cr.B.A.No.S-885 of 2025. The record reflects the following prior proceedings between the parties and/or concerning the present applicants:

a) For Muhammad Khan (post-arrest):

- Criminal Bail Application No. 445 of 2025 before the Court of 2nd Additional Sessions Judge, Tando Allahyar; decided on 23.06.2025. The learned court dismissed post-arrest bail, inter alia, on the premise of specific nomination, supporting 161 Cr.P.C. statements, and medical corroboration of non-bailable injuries.

b) For Adnan Hussain (pre-arrest):

- Criminal Bail Application No. 356 of 2025 before the Court of 2nd Additional Sessions Judge, Tando Allahyar; order dated 03.06.2025. Interim pre-arrest bail earlier granted on 19.05.2025 was recalled/dismissed vis-à-vis Applicant No.1 Muhammad Khan and Applicant No.3 Adnan Hussain, while interim pre-arrest bail of Applicant No.2 Mst. Rozina was confirmed. As regards Adnan Hussain, the learned court declined the extraordinary relief of pre-arrest bail.
- Subsequently, before this Court, interim pre-arrest protection was granted to Adnan Hussain in Cr.B.A.No.S-885 of 2025, which came up for confirmation along with Muhammad Khan's post-arrest bail.

2. Brief facts of the prosecution case as per FIR are that there existed an admitted, longstanding matrimonial discord between the complainant Muhammad Ibrahim and his wife Mst. Rozina (sister of some of the accused). On account of this dispute, Mst. Rozina allegedly left the complainant's house with household articles and began residing with her brothers. On 05.04.2025 at about 12:30 a.m., near Noor Hassan Lund Cabin at a Chowk, the complainant Ibrahim along with his relative Abbas Ali was allegedly confronted by accused Muhammad Khan S/o. Ghulam Nabi (armed with an iron rod), Sarmad and Samad (armed with lathis), and Adnan Hussain S/o. Khadim Hussain (armed with an iron rod). It is alleged that the accused abused and assaulted the complainant party with iron rods and lathis, causing them to fall to the ground and sustain multiple injuries. On hearing hue and cry, witnesses Amjad S/o. Muhammad Iqbal and Mehboob Ali S/o. Haji Rafeeq allegedly arrived at the spot, witnessed the occurrence, whereupon the accused fled while issuing threats. The injured were taken to the police station for treatment letters, then to Civil Hospital Tando Allahyar for first aid, and thereafter referred to Civil Hospital Hyderabad for further treatment. The complainant states that upon receipt of the final medico-legal certificates, he approached the SHO for registration of FIR, but on refusal, he invoked the jurisdiction of the Court under Section 22-A/B Cr.P.C. Consequently, FIR No.39 of 2025 was registered on 17.05.2025 by order of the Court.

3. Learned counsel for the applicants submits that the admitted enmity and pending cross-case (FIR No.09/2025) create a real possibility of false implication and improvements. It is argued that there is a material delay: the incident of 05.04.2025 and FIR dated 17.05.2025 via court order; even if procedural steps were taken, such lapse invites further inquiry. It is further argued that the role ascribed to Muhammad Khan is omnibus; no particular blow is specifically attributed to him in a manner enabling precise allocation of injuries under the Hurt Chapters of PPC. It is further argued that Adnan Hussain was not originally nominated in the 22-A/B application; his subsequent implication is an arguable afterthought. He further contends that Medical evidence corroborates the factum and nature of injuries but does not fix identity or allocate each injury to a particular assailant at this stage. It is further argued that Investigation qua Muhammad Khan is substantially complete; no recovery is due; he has clean antecedents; and the statutory test of “further inquiry” under Section 497(2) Cr.P.C. is met. Lastly, the learned counsel prayed for grant of bail.

4. Learned Assistant Prosecution General assisted by the learned counsel for the complainant, opposes, contending that both applicants are nominated; statements under Section 161 Cr.P.C. of PWs support the ocular account. It is further argued that the medical certificates substantiate non-bailable injuries including under Section 334 PPC (punishment up to 10 years), bringing the matter within the prohibitory clause of Section 497(1) Cr.P.C. It is contended that the delay stands explained by the chain of medical treatment, obtaining final MLCs, and recourse under Section 22-A/B Cr.P.C. It is further argued that the extraordinary relief of pre-arrest bail is not warranted in Adnan’s case; nor is post-arrest bail permissible where specific roles are assigned and ocular/medical evidence align. Lastly, both the learned counsel for Complainant and the learned A.P.G. prayed for dismissal of bail.

5. I have heard learned counsel and perused the record. A tentative appreciation, as warranted at bail stage, reveals that the parties are admittedly at loggerheads on account of a matrimonial dispute. It may supply motive for crime but equally increases the probability of false implication, exaggeration, or substitution. This factor supports the statutory remit of “further inquiry” under Section 497(2) Cr.P.C. The occurrence is dated 05.04.2025, whereas the FIR was registered through Court order on 17.05.2025 after medical treatment and recourse to a petition under Section 22-A/B, Cr.P.C., reflecting an inordinate delay of one month and twelve days, for which no plausible explanation is forthcoming on record. Even if the complainant’s stance is accepted at face value, the lapse of over a month prima facie diminishes the spontaneity of the narrative and affords room for deliberation and consultation. At the very least, it renders the prosecution version arguable at this stage. Against Applicant Muhammad Khan, the allegations appear omnibus in tenor; precise allocation of the injuries declared under the Hurt Chapters to him is not free from doubt. Regarding Applicant Adnan Hussain, the material indicates his name was not proposed at the 22-A/B stage and surfaced later, which is a relevant circumstance at bail stage to examine possible afterthought. Both aspects cumulatively point to the need for deeper probe at trial. The available MLCs confirm the receipt of multiple injuries including those falling under Sections 334, 337-A(i), 337-F(v) and 337-F(vi) PPC. However, medical evidence, though corroborative of occurrence and nature, is generally neutral on the identity of assailants and allocation of specific hurt to particular accused unless supported by consistent ocular account, an exercise reserved for trial. Even where the offences fall within the prohibitory clause, bail can be granted if the case calls for further inquiry under Section 497(2) Cr.P.C., or where mitigating factors exist (admitted enmity, delayed FIR, lack of specific role, alleged improvements). The settled

principle is that any reasonable doubt at bail stage accrues to the benefit of the accused. The investigation appears substantially complete; no recovery is shown to be pending at the instance of Muhammad Khan; there is no demonstrated likelihood of abscondence or witness intimidation that cannot be addressed by conditions. Prolonged incarceration pending trial, when further inquiry is made out, serves no fruitful purpose. Pre-arrest bail is extraordinary, meant to prevent abuse of process and humiliation through unjustified arrest. In the present backdrop, admitted enmity, delayed/contested nomination, absence of misuse of interim protection, cooperation with investigation, and no concrete material of tampering, the protection merits confirmation, subject to safeguards.

6. In view of the cumulative factors, admitted enmity; delayed FIR via court; arguable absence of specific role attribution to Muhammad Khan; contested and belated nomination of Adnan Hussain vis-à-vis the 22-A/B stage; the limited probative value of medical evidence on identity at this juncture; the state of investigation; and the principle of further inquiry under Section 497(2) Cr.P.C., both applicants have made out a case for the exercise of discretion in their favour.

7. For the foregoing reasons, the Cr.Bail Application Nos.S-885 of 2025 and Cr.Bail Application No.S-789 of 2025 were allowed and the applicant Muhammad Khan son of Ghulam Nabi in Cr.B.A.No.S-789 of 2025 was admitted to post arrest bail in Crime No.39 of 2025 for offence under Sections 506/2, 334, 337-A(i), F(v), F(vi), 504, 34, 109 PPC registered at P.S. Piyaro Lund subject to furnishing solvent surety in the sum of Rs.50,000/= and PR bond in the like amount to the satisfaction of learned trial court. While, the bail plea of applicant Adnan Hussain son of Khadim Hussain under Section 498 Cr.P.C in Cr.B.A.No.885 of 2025 arising out from crime No.39 of 2025

for offence under Sections 506/2, 334, 337-A(i), F(v), F(vi), 504, 34, 109 PPC registered at P.S. Piyaro Lund was confirmed on same terms and conditions and these are the reasons of my Short Order dated: 02-09-2025.

8. The observations made herein are tentative, strictly confined to the decision of these bail applications, and shall not prejudice the trial Court in any manner at the time of final adjudication. Both applications stand allowed in the above terms.

JUDGE

Ahmed/Pa,