

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS.**

Criminal Bail Application No.S-273 of 2025

Applicants : (i). Mumtaz Ali @ Mitho s/o Moula Bux.
(ii). Niaz Muhammad s/o Moula Bux.
(iii). Jumoon Khan s/o Moula Bux.
Through Mr. Haji Qalandar Bux Laghari,
Advocate.

Respondent : The State through Mr. Neel Parkash, Deputy
Prosecutor General.

Complainant : Ayo Khan s/o Sabar Khan.
Through Mr. Abdul Ghaffar Narejo, Advocate.

Criminal Bail Application No.S-296 of 2025

Applicant : Ilyas s/o Faqeer Muhammad
Through Mr. Haji Qalandar Bux Laghari,
Advocate.

Respondent : The State through Mr. Neel Parkash, Deputy
Prosecutor General.

Complainant : Ayo Khan s/o Sabar Khan.
Through Mr. Abdul Ghaffar Narejo, Advocate.

Date of hearing : 02.12.2025.
Date of Order : 02.12.2025.

ORDER.

SHAMSUDDIN ABBASI, J:- Through bail application No.273 of 2025, the applicants/accused, namely Mumtaz Ali @ Mitho, Niaz Muhammad and Jumoon seek pre-arrest bail in Crime No.23/2025, registered at PS Dengan Bhurgari for the offences under sections 324, 452, 337-A(i), 337-F(i), 504, 34 PPC and through bail application No.296 of 2025, the applicant/accused namely Ilyas seeks post-arrest bail in same offence. After dismissal of their bail pleas by the learned Additional Sessions Judge-I, Mirpurkhas, vide orders dated 10.10.2025.

2. The brief facts of the prosecutions' case are that applicants armed with hatchet and lathi came at the scene of the offence and caused backside hatchet injury and lathi blows to PWs namely Leemon and Kanbhoo on their head and right arm. Hence this bail application.

3. Learned counsel for the applicants submits there is recorded enmity between the parties; that there is delay of four days in lodgment of FIR. He further submits that injury sustained by the PW/injured Leemon was declared as Shajjah-i-Munaqqilah under section 337-A(iv) PPC and injury sustained by the PW/injured Kanbhoo was declared as Ghyar Jaifah Munaqqilah under section 337-F(vi) PPC and applicability of section 324 PPC is yet to be determined at the trial, whereas no specific role has been assigned to the applicants Jumoon Khan and Ilyas and mere their presence has been shown at the scene of the offence, without assigning any role, which requires further inquiry under section 497(2) Cr.P.C.

4. On the other hand, learned Deputy Prosecutor General and learned counsel for the complainant have opposed the grant of bail to the applicants/accused on the ground that applicants are nominated in the FIR with their specific roles and the ocular version is corroborated by the medical evidence. Injury sustained by the Leemon falls under section 337-A(iv) PPC, which is punishable for 10 years and in these circumstances applicability of section 324 is fully attracted and they have failed to make out their case for grant of pre-arrest as well as post-arrest bail.

5. Heard learned counsel for the applicant, learned counsel for the complainant, learned Deputy Prosecutor General and perused the record.

6. No doubt there is delay of four days in lodgment of the FIR, but the complainant has well explained the delay for the reason that the complainant party approached to the Police Station on same day and Police kept entry No.15 dated 20.09.2025 and also issued letter to the injured for their medical treatment. The applicants are nominated in the FIR. During investigation PWs/injured supported the case of the prosecution. The specific role for causing backside hatchet injury is attributed to the applicant/accused Mumtaz Ali on the head of PW/injured Leemon, which was declared as Shajjah-i-Munaqqilah under section 337-A(iv) PPC, which is punishable for 10 years(Grievous in nature) and specific role has also been assigned to accused Niaz Muhammad, who caused lathi blow to injured Kanbhoo on his right arm, which caused fracture on his right arm and said injury was declared as

Jurh Ghyar Jaifah under section 337-F(vi) PPC, which is punishable for 07 years. As for case of the applicant Jumoon Khan and Ilyas is concerned no specific role has been assigned to them, mere their presence is shown at the scene of the offence and it is settled position that sharing of common intention requires further inquiry in terms of section 497(2) Cr.P.C. Reliance is placed on case law reported in 2011 SCMR 902. Therefore, interim pre-arrest bail granted to the applicant Jumoon Khan is hereby confirmed on same terms and conditions and applicant Ilyas is admitted to post-arrest bail subject to furnishing solvent surety in sum of Rs.50,000/- (Fifty Thousand only) for the satisfaction of learned trial Court. Specific roles have been assigned to the applicants/accused Mumtaz Ali and Niaz Muhammad, which is supported by medical evidence and no case for pre-arrest bail is made out by them, therefore, interim bail already granted to the applicants/accused Mumtaz Ali and Niaz Muhammad is hereby recalled and their bail application is hereby dismissed with direction to surrender before learned trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

JUDGE

Adnan Ashraf Nizamani