

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1237 of 2025

Applicants : Qamaruddin son of Sardar Khan Khoso, Ruqab Ali Khoso son of Ali Bux Khoso, Anwer Ali son of Ali Bux Khoso, Ali Hassan son of Qamaruddin Khoso and Imam Ali son of Ruqab Ali Khoso through Mr. Faqir Qurban Ali Soomro, Advocate

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 10.12.2025

Date of decision : 10.12.2025

O R D E R

Jan Ali Junejo, J.- The Applicants, namely (1) Qamaruddin son of Sardar Khan Khoso, (2) Ruqab Ali Khoso son of Ali Bux Khoso, (3) Anwer Ali son of Ali Bux Khoso, (4) Ali Hassan son of Qamaruddin Khoso, and (5) Imam Ali son of Ruqab Ali Khoso, have sought pre-arrest bail before this Court in FIR No.11 of 2025, registered at Police Station Jherruck, District Thatta, for offences under Sections 324, 353, 147, 148, 149, 447/511, 186, 506/2, 337-A(i) and 337-L(ii) PPC. An earlier bail application (No.238/2025) filed by the Applicants was dismissed by the learned IInd Additional Sessions Judge, Thatta, vide order dated 27.03.2025. Subsequently, the Applicants were granted ad-interim pre-arrest bail by this Court vide order dated 14.05.2025.

2. Briefly, the prosecution case as narrated in the FIR is that on 17.02.2025, the complainant along with other forest officials allegedly found the Applicants and others cultivating forest land. Upon intervention, it is alleged that the Applicants, while being armed, caused injuries to the complainant party and extended threats, whereafter the FIR was registered at Police Station Jherruck.

3. Learned counsel for the Applicants submits that the Applicants are innocent and have been falsely implicated due to mala fide and ulterior motives; he argues that the FIR suffers from material improbabilities,

unexplained delay and absence of independent corroboration, as all cited witnesses are officials of the Forest Department despite the alleged occurrence at an open place; he contends that except Section 324 PPC all other offences are bailable, and even the essential ingredients of Section 324 PPC are *prima facie* missing in view of the nature of injuries, which are simple and fall within Sections 337-A(i) and 337-L(ii) PPC; he argues that no intention or knowledge to commit qatl is made out, no recovery or custodial interrogation is required, and the Applicants are local residents with clean antecedents, having no likelihood of absconding or tampering with prosecution evidence. On these grounds, he prays that the ad-interim pre-arrest bail granted to the Applicants be confirmed.

4. Conversely, learned Additional Prosecutor General for the State opposes the application; she contends that the Applicants are specifically nominated in the FIR with assigned and active roles, that they formed an unlawful assembly, were armed with deadly weapons and obstructed public servants in the discharge of their lawful duties; she argues that the offence under Section 324 PPC is non-bailable and falls within the prohibitory clause, attracting vicarious liability under Section 149 PPC; she contends that the prosecution version is duly supported by statements recorded under Section 161 Cr.P.C. as well as medical evidence, establishing *prima facie* guilt, and that no *mala fide* has been shown to warrant the extraordinary relief of pre-arrest bail. She, therefore, prays for dismissal of the bail application.

5. I have considered the arguments advanced by the learned counsel for the Applicants as well as the learned A.P.G. for the State, and have also undertaken a tentative assessment of the material available on record, as permissible at the bail stage. It is settled law that pre-arrest bail under Section 498 Cr.P.C. is an extraordinary relief, intended to protect an innocent person from arbitrary, *mala fide* or unjustified arrest, and that the power of arrest should not be employed as a tool for harassment or humiliation. Upon tentative assessment of the FIR, medical documents and available material, it *prima facie* transpires that all witnesses cited are official witnesses of the Forest Department, and no independent witness has been associated despite the alleged incident having occurred at an open place. The sequence of events narrated in the FIR, including alleged injuries, movement to the police station, medical examination and registration of FIR, requires deeper appreciation of evidence, which is not permissible at the bail stage.

6. More importantly, from a careful tentative appraisal of the record, the essential ingredients of the offence under Section 324 PPC are *prima facie* missing. The injuries allegedly sustained by the complainant and other PWs are described as minor/simple in nature, falling within the ambit of Shajjah-i-Khafifah and other hurts, punishable under Sections 337-A(i) and 337-L(ii) PPC, which are bailable offences. There is no material available at this stage to show that the Applicants acted with such intention or knowledge so as to attract the offence of attempt to commit qatl-e-Amd, nor does the medical evidence *prima facie* support the allegation of use of deadly force with intent to cause death. The question of intention, weapon-injury nexus and applicability of Section 324 PPC is thus a matter to be determined after recording of evidence at trial. Reliance is placed on the principle laid down by the Honourable Supreme Court in case of ***Ali Raza v. The State and others (2022 SCMR 1245)***, wherein it was observed that: "*It is also an admitted position that the petitioner fired only single shot at the non-vital part i.e. wrist of the injured PW and had not repeated the same despite having ample opportunity to do so, which shows that perhaps the petitioner had no intention to kill the injured PW*". Reference may also be made to the principle enunciated by the Honourable Supreme Court of Pakistan in the case of ***Jamaluddin and another v. The State (2023 SCMR 1243)*** wherein it was held that: "*The complainant and the injured PW received injuries on the non-vital parts of the body and the petitioners did not repeat the fire despite having ample opportunity to do so. In this view of the matter, the question whether section 324, P.P.C. would be applicable in the case or not would be determined by the learned Trial Court after recording of evidence.* As far as the question which requires the attention of this Court is that petitioner Jamaluddin has been granted *ad interim* pre-arrest bail by this Court whereas the other petitioner Rabail has filed petition claiming post-arrest bail. As far as the principle enunciated by this Court regarding the consideration for grant of pre-arrest bail and post-arrest bail are entirely on different footings is concerned, we have noticed that in this case both the petitioners are ascribed the same role. For the sake of arguments if it is assumed that the petitioner enjoying *ad interim* pre-arrest bail is declined the relief on the ground that the considerations for pre-arrest bail are different and the other is granted post-arrest bail on merits, then the same would be only limited upto the arrest of the petitioner Jamaluddin because of the reason that soon after his arrest he would be entitled for the concession of post-arrest bail on the plea of consistency". The underlining is supplied.

7. Besides Section 324 PPC, all other sections invoked in the FIR are bailable in nature, and even the applicability of Section 506(2) PPC depends upon proof of alleged threats and their impact, which again requires evidence. In the peculiar facts and circumstances of the case, the role attributed to the Applicants, the nature of injuries, absence of independent corroboration and the overall material available on record, the case of the Applicants squarely calls for further inquiry within the meaning of Section 497(2), Cr.P.C. At this stage, no reasonable grounds exist to believe that the Applicants have committed the offence punishable under Section 324 PPC.

8. Resultantly, this Criminal Bail Application is allowed, and the ad-interim pre-arrest bail granted to the Applicants, namely Qamaruddin, Ruqab Ali Khoso, Anwer Ali, Ali Hassan and Imam Ali, in FIR No.11 of 2025, registered at Police Station Jherruck, District Thatta, for offences under Sections 447, 511, 324, 353, 186, 147, 148, 149, 506/2, 337-A(i), 337-L(ii) PPC, vide order dated 14.05.2025, is hereby confirmed on the same terms and conditions. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. These are the detailed reasons of the Short Order dated: 10.12.2025.

JUDGE

Qurban