

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

24/25

PRESENT:

MR. JUSTICE MUHAMMAD HASHIM KHAN KAKAR
MR. JUSTICE ISHTIAQ IBRAHIM

Crl.P.L.A. No.255-L/2025

(Against the order dated 05.03.2025, passed by the Lahore High Court Lahore in Crl.Misc. No.10690-B of 2025)

Mudassar Khursheed

...Petitioner

VERSUS

The State and another.

...Respondents

For the Petitioner:

Mr. Muhammad Irfan Malik, ASC alongwith petitioner through video link from Lahore.

For the State:

Mr. Tariq Siddiqui, Addl.PG Punjab.

Date of hearing:

08.04.2025

ORDER

ISHTIAQ IBRAHIM, J.- Through the instant petition under Article 183(3) of the Constitution of Islamic Republic of Pakistan, 1973, petitioner Mudassar Khursheed, seeks leave to appeal against the order dated 05.03.2025 (**'impugned order'**), passed in Crl. Misc. No.10690-B/2025 by the Lahore High Court, Lahore, whereby he was refused anticipatory bail in case FIR No.23 dated 09.01.2025, under Sections 452, 354, 148,149 PPC, registered at Police Station Silanwali District Sargodha.

2. Allegations against the petitioner are that on 29.08.2024 at about 07.30 p.m., he alongwith co-accused Khursheed Alam and Mubashar alias Mubashar Khursheed Alam, duly armed with deadly weapons and forming an unlawful assembly in prosecution of common object committed trespass into the house of complainant Shoaib Abbas, threatened him of dire consequences, assaulted his mother with intent to outrage her modesty and inflicted blow on the head of the complainant with Butt of a pistol.

3. Having heard the arguments of learned counsel for the petitioner and learned Addl. PG appearing on behalf of the State, we have noticed that through the impugned order the learned High Court has extended extra

ordinary concession of pre-arrest bail to co-accused Mubashar alias Mubashar Khursheed Alam and Khursheed Alam but has refused the same concession to the petitioner on the sole ground that the role of inflicting blow on the head of the complainant with Butt of the pistol has been specifically assigned to him. A look over the FIR would reveal that role of the co-accused is at par to a great extent with the role of the petitioner; therefore, on the rule of consistency the petitioner was also entitled to be treated at par with his co-accused. Even otherwise, offence under section 354 PPC is bailable whereas punishments of the offences under sections 452, 148 and 149 PPC do not fall within the Prohibitory Clause of Section 497 Cr.P.C. and in such like cases grant of bail is a rule and refusal thereof an exception. Legally speaking, if the relief of pre-arrest bail is refused to the petitioner, he would be entitled to post arrest bail keeping in view punishment of the offences with which he is charged. In case titled, “Khalil Ahmed Soomro vs the State (PLD 2017 SC 730), this court has held that if accused person has a good case for post arrest bail then mere at the wish of the complainant, the accused cannot be sent behind the bars for few days by dismissing his application for pre-arrest bail. It is well settled principle of law that once court reaches at the conclusion that in case of dismissal of pre-arrest bail the accused would become entitled for post arrest bail, then it would be a mere futile exercise to send the accused to prison. Further reliance in this regard may also be placed on cases titled, “Muhammad Ramzan vs Zafar Ullah and another” (1986 SCMR 1380), and “Khair Muhammad and another vs the State through PG Punjab and another (2021 SCMR 130).”

4. Accordingly, this petition is converted into an appeal and is allowed. The petitioner is granted pre-arrest bail provided he furnishes surety bond in the sum of rupees one lac to the satisfaction of the Deputy Registrar of this Court at Lahore Registry.

Islamabad

08.04.2025

Approved for reporting.

M.Siraj Afridi PS