

ORDER SHEET  
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No.S-259 of 2025  
(Allah Bux Mangrio Vs. The State)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Hearing of post-arrest bail

- 1. For orders on office objections at flag ‘A’
- 2. For hearing of bail application.

ORDER.  
05-05-2025.

Mr. Irshad Hussain Dharejo advocate for the applicant.  
Mr. Allah Warayo Soomro, advocate for complainant.  
Syed Sardar Ali Shah Rizvil, Additional P.G for the State.

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*Ali Haider ‘Ada’, J.*Through this bail application, the applicant/accused seeks pre-arrest bail in Crime No. 27 of 2025, registered under Sections 337-F(i), 337-F(v), and 34 PPC at Police Station Sorah by complainant. Prior to filing the present application, the applicant approached the learned Sessions Judge, Khairpur for the same relief. The matter was subsequently transferred to the learned Additional Sessions Judge-III, Khairpur, who, vide order dated 19-03-2025, declined the pre-arrest bail.

2. According to the prosecution, Mst. Khanzadi, who is the sister of the complainant, is married to the applicant. It is alleged that the applicant intended to contract a second marriage, which was opposed by Mst. Khanzadi. On 04-03-2025 at about 1:00 PM, the applicant, along with co-accused Mithal, Peeral, and Ameer Bux, allegedly inflicted injuries upon Mst. Khanzadi and the applicant specifically striking her left arm with a lathi, on her cries the complainant party attracted and thereafter, she was referred to the hospital for treatment by the

police after obtaining a referral letter. Upon receiving the final medical certificate, the complainant approached the Police Station and registered the FIR.

3. The final medical certificate was issued by the Lady Medical Officer on 08-03-2025, noting a total of four injuries. Injury No. 1 was declared as Ghayr Jaifah Hashmiah, falling under Section 337-F(v) PPC; Injury No. 2 was declared as Ghayr Jaifah Damiah, under Section 337-F(i) PPC; while Injuries No. 3 and 4 were categorized under Section 337-H(ii) PPC. Subsequently, the challan was submitted before the competent Court of Law.

4. Learned counsel for the applicant submits that there is an inordinate delay in lodging the FIR, despite the complainant allegedly obtaining a medical referral letter from the police on the day of the incident. However, the FIR was only registered after the issuance of the final medical certificate, which is not a legal requirement under the law, as the complainant's information could have been recorded under Section 154 or 155 Cr.P.C at the time of approaching the Police Station. This procedural lapse points to a serious lacuna in the prosecution case. It is further argued that the applicant is the husband of the alleged injured and the alleged act was not committed by him, which will be determined during trial. Moreover, it is submitted that the complainant resides in another village, Donger Faqir, while the alleged incident shown be took place at the residence of the applicant in Village Muhammad Mithal, casting serious doubt on the presence of complainant at the place of incident. The counsel contends that the injuries were not caused by the applicant or the co-accused. It is also argued that all the offences are bailable, except for Section 337-F(v) PPC, which does not fall under the prohibitory clause of Section 497 Cr.P.C. In support of his arguments, reliance is placed on the case of *Muhammad Tanveer vs. The State* (PLD 2017 SC 733) and the learned counsel prays for confirmation of interim bail.

5. Conversely, learned counsel for the complainant vehemently opposes the bail application, contending that the applicant is prima facie involved in the commission of the offence. He argues that a fracture injury was caused by the applicant, which is serious in nature, thereby disentitling him from the relief of pre-arrest bail. He further submits that no malafide on the part of the complainant has been demonstrated by the applicant. In support of his arguments, reliance is placed upon the cases of *Muhammad Aslam and another vs. The State* (2007 SCMR 1412) and *Mujahid and 4 others vs. The State and another* (2017 P.Cr.L.J Note 40). He finally prays for dismissal of the bail application.

6. On the other hand, the learned Additional Prosecutor General for the State submits that the final medical certificate issued by the Lady Medical Officer reflects the date and time of the incident as 03-03-2025, which is inconsistent with the FIR, where the date of the incident is recorded as 04-03-2025. He further points out that the date of medical examination is mentioned as 05-03-2025 in the medical certificate, whereas the complainant in the FIR claimed that the injured was examined on 04-03-2025, the same day as the alleged incident. However, he also submits that a bare reading of the FIR shows that the applicant has been nominated with a specific role in the commission of the alleged offence.

7. Heard the arguments and examined the material on record.

8. First of all, it is evident that there is a delay in the registration of the FIR and no satisfactory explanation has been provided for this delay. Under Section 154 of the Cr.P.C, the police are bound to immediately record the version of the aggrieved party when a cognizable offence is reported. The procedure dictates that the First Information Report must be lodged promptly. In this case, however, the FIR was delayed and there is no record in the Section 155 Cr.P.C book, which deals with information relating to non-cognizable offences either.

9. Explanation given by the complainant regarding the delay is that the FIR was registered in order to classify the correct sections of the law. This reasoning is contrary to the established principles of criminal jurisprudence, where the information under Section 155 Cr.P.C is meant to be converted into an FIR once a cognizable offence is identified or classified. The final medical certificate or any other medical document could be used to substantiate the classification of the offence; however, such procedural delay in this case raises concerns about the fairness of the proceedings. Police Rules, 1934 provide specific procedures for the registration of FIR and investigation of cases. Rule 24.1 of the Police Rules, 1934 mandates that when a cognizable offence is reported, the police are required to immediately record the FIR in the prescribed format and without any delay. At on the other hand the Rule 24.3 of the Police Rules 1934, provides specific procedure about any offence which is non cognizable in nature. The police are obliged to comply with the procedure and failure to do so can lead to serious consequences. In this case, the police did not adhere to these rules, which indicates a lack of proper procedure in registering the FIR and a violation of the Cr.P.C and Police Rules, 1934.

10. Secondly, even if the version of complainant is believed, the final medical certificate was issued on 08-03-2025 for the purpose of classifying the correct legal sections, yet the FIR was registered with a delay of one day thereafter. The explanation for this delay has not been provided, raising serious doubts. This delay suggests the possibility that the FIR was registered with premeditation and raising concerns about afterthoughts in the registration process. On the point of delay in FIR, reliance is placed upon the case of *Mazhar Ali vs. The State (2025 SCMR 318)*.

11. The medical evidence regarding the examination of the injured and the date of the incident is inconsistent and conflicting with the ocular evidence. The medical documents indicate that the duration of the injuries was 2-3 days, while the complainant claimed that they immediately approached the lady doctor for treatment after the incident. In cases involving injuries, it is standard practice for doctors to refer the injured person for an X-ray to ascertain the extent of the injuries, especially in cases of fracture. However, in this case, the lady doctor referred the injured to a Radiologist on 05-03-2025 for an X-ray and the medical document states that the lady doctor examined the injured on 05-03-2025, which raises serious doubts about the prosecution case.

12. Being guided by the verdict of the Honourable Supreme Court in the unreported case of *Muhammad Akhter vs. The State, Criminal Petition No. 310 of 2025*, the Honourable Apex Court held that:

*“4.Legally speaking, out of the offences with which the petitioner is charged, section 337 F(i), 337 A(i) and 337 L(2) PPC are bailable and in such like offences bail is a right, whereas punishment of the offence under sections 337 F(vi) PPC does not fall within the Prohibitory Clause of Section 497 Cr.P.C.”*

13. In such circumstances, the benefit of the doubt goes to the accused even at the bail stage. This legal principle is further reinforced by the judgment in *Naveed Sattar vs. The State (2024 SCMR 205)*, where the Honourable Supreme Court held that the benefit of the doubt should be given to the accused, even at the bail stage.

14. The principal as laid down by the Honourable Supreme Court in the case of *Saeed Ahmed and another vs. The State (PLD 2024 SC 1241)*, it was held that:

*On the basis of tentative assessment of the material so far available on record the case against the petitioners falls within the ambit of further enquiry as well. In the cases of Salman Mustaq vs The State, Ahtisham Ali vs The State, Fahad Hussain vs The State , Gulshan Ali Solangi vs*

*The State, Muhammad Sadiq vs The State , Rana Muhammad Arshad vs Muhammad Rafique , apart from the grounds of malafide , ulterior motive and abuse of process of law , the accused were granted pre-arrest bail on the ground of further enquiry on the basis of tentative assessment of the material available on record.*

15. In view of the foregoing discussion, I am of the considered opinion that the applicant/accused named above has successfully made out a case for the confirmation of pre-arrest bail. Accordingly, the ad-interim pre-arrest bail already granted to the applicant vide order dated 24-03-2025 is hereby confirmed.

16. Needless to mention, the observations made herein are purely tentative in nature and shall not prejudice the trial Court.

17. The bail application stands disposed of in the above terms.

**J U D G E**

***Ihsan/PS.***