

**ORDER SHEET**  
**THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

Crl. Bail Application No. S-454 of 2026

Applicants : Saad Saifullah and another through Mr. Muhammad Asif Zai, Mr. Mir Shahzad Ahmed Talpur and Mr. Mir Tarique Khan Talpur, Advocates along with the Applicants in person on *interim* bail.

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

Complainant : Mst. Malaiba present in person along with Mr. Daud Ali Laghari, Advocate.

Mst. Khadija, Grandmother of the Applicant No.2 and Complainant also present.

Dates of Hearing : 07.09.2026

Date of Order : 07.09.2026

**ORDER**

**Muhammad Humayon Khan, J.:** The two Applicants have been nominated by the Digri Police Station in Crime No.102 of 2026 under ss. 506-ii, 341, 354, 504, 509 and 34 of the PPC. They have sought bail before arrest under s. 498 of the Cr.P.C after having been denied the same relief by the learned Court below.

2. The FIR was lodged in pursuance of an order dated 25.07.2026 of the learned Additional Sessions Judge-II and Ex-Officio Justice of Peace, Mirpurkhas, in Criminal Miscellaneous Application No. 1194 of 2026. The Complainant is the victim herself, Mst. Mulaiba daughter of Abid Hussain Jatt. The contents of the FIR have to be read verbatim and are translated below for convenience:

“I state that I reside at the address mentioned above and am studying in AD-Arts Part-II at Tando Jan Muhammad College. Persons namely Abdullah son of Amanullah and Saad son of Saifullah Jatt frequently harass me for keeping friendship with them, and they also frequently follow me. On 20-07-2026, I, along with my grandmother, Mst. Khadija, left home to go to Digri city. When, in the morning at about 08:00 am we reached Maqsood Water Stop, in the meantime the said Abdullah Jatt and Saad Jatt came there riding a black-coloured motorcycle. They brought the motorcycle in front of

us and stopped us. Abdullah Jatt and Saad Jatt got off the motorcycle and abused me. They asked me to keep friendship with them. I told them not to abuse me. Thereupon, both of them caught hold of me by my arms, manhandled me and tore my clothes. I raised cries, whereupon both of them took out pistols from their persons, pointed them directly at me and threatened to kill me, saying that if I did not keep friendship with them, they would kill me. In the meantime, my paternal uncle, Saddam Hussain Jatt, came running towards us while raising calls/shouts. On seeing him coming, the accused fled. While leaving, they continued abusing me and issuing threats to kill me, and rode away on the motorcycle. Thereafter, I submitted an application before the learned Additional Sessions Judge-II, Mirpurkhas, whereupon an order was passed for registration of the case in Criminal Miscellaneous Application No. 1194/2026. Pursuant to the said order, I have appeared at this Police Station and, while having my statement recorded, complain that the accused persons, namely Abdullah Jatt and Saad Jatt, because I would not keep friendship with them, wrongfully restrained me, tore my clothes, abused me, pointed pistols at me and threatened to kill me. I seek legal action/redress against them.”

3. I have heard Mr. Muhammad Asif Zai and Mir Shahzad Ahmed Talpur for the Applicants as well as Mr. Neel Parkash, the learned Deputy Prosecutor General Sindh, and Mr. Daud Ali Laghari for the Complainant. I have gone through the record of the case, including the police papers which were provided by Mr. Neel Parkash upon the Court’s request.

4. Before proceeding further, I may clarify that this is a pre-arrest bail application under s. 498 of the CrPC which is an extraordinary relief which is an exception to the ordinary process and so it is only to be granted in extraordinary situations. The conditions required to be fulfilled for the grant of this extraordinary relief are dealt with in *Rana Muhammad Arshad v Muhammad Rafique and another* PLD 2009 SC 427 at para 9. The Supreme Court there had specified a test for consideration in granting bail. The relevant conditions may be stated below:

- i) Grant of bail before arrest is an extraordinary relief to be granted only in extraordinary situations to protect innocent persons against victimization through abuse of law for ulterior motives.
- ii) Bail before arrest cannot be granted unless the person seeking it satisfies the conditions specified through subsection (2) of section 497 of the Code of Criminal Procedure i.e. unless he establishes the existence of reasonable grounds leading to a belief that he was not

guilty of the offence alleged against him and that there were, in fact, sufficient grounds warranting inquiry into his guilt.

- iii) The accused must also show that his arrest was being sought for ulterior motive, particularly on the part of the police to cause irreparable humiliation to him and to disgrace and dishonour him.
- iv) He should further establish that he had not done or suffered any act which would disentitle him to a discretionary relief in enquiry e.g. he had no past criminal record or that he had not been a fugitive at law.

5. Now, on facts of the case, the allegation against both the applicants is one and the same. The Complainant was present in Court and she has filed five (5) screenshots of WhatsApp messages from her phone alluding to gender-based harassment, and on a perusal of the screenshots the person on the other end purports to be the Applicant No. 2, namely, Abdullah son of Muhammad Amanullah. She has also filed two photographs showing deep scratches on her knee and arm respectively which *prima facie* corroborate her complaint. There are two witnesses of the incident, namely Saddam Hussain son of Maqsood Ahmed (uncle of the Applicant No. 2 and the Complainant both) and Mst. Khadija wife of Ahmed Jatt (grandmother of the Complainant and the Applicant No. 2) and both have specifically nominated the Applicants in their statements under s. 161 of the Cr.P.C in complete support of the FIR. Although s. 354A of the PPC has been added later on in the interim challan under s. 173 of the Cr.P.C, it is clear from the contents of the FIR that the same ought to have been inserted (the allegation and supporting material being that of manhandling and tearing the clothes of the Complainant). Learned Mr. Neel Parkash rightly relied on *Ashfaq Hussain and others v The State* 2026 SCMR 1196 in which the Supreme Court has for similar reasons declined pre-arrest bail although s. 354A of the PPC was subsequently inserted. Apart from this, the torn clothes of the Complainant allegedly resulting from the incident under discussion have also been seized in the presence of mashirs.

6. As far as the case of Applicant No. 2 is concerned, although he being born on 17.02.2010 is aged sixteen years and six months, which comes to less than eighteen but more than sixteen years of

age, he has, according to the allegations in the FIR, *prima facie* played an active and vital role in the offence and at this stage his culpability cannot be ruled out. The case of the Applicant No. 2 is covered by s. 6(4) of the Juvenile Justice System Act, 2018 which reads:

**“6. Release of a juvenile on bail. – (1) to (3) ...**

(4) Where a juvenile of more than sixteen years of age is arrested or detailed for a heinous offence, he may not be released on bail if the Juvenile Court is of the opinion that there are reasonable grounds to believe that such juvenile is involved in the commission of a heinous offence.”

The term “heinous offence” is then defined in s. 2(g) of the 2018 Act as “an offence which is serious, gruesome, brutal, sensational in character *or shocking to public morality and which is punishable* under the Pakistan Penal Code, 1860 (Act XIV of 1860) or any other law for the time being in force *with death or life imprisonment or imprisonment for more than seven years with or without fine*” (emphasis added). In such situations, a juvenile aged more than sixteen but less than eighteen may not be entitled to bail as observed in *Khawar Kayani v The State and others* PLD 2022 SC 551 (para 5).

7. There are two main grounds raised by the Applicants. The first is that there is enmity between the parties, as to which it is already well-settled that enmity is a double-edged weapon supplying motive for both the crime and false implication and cannot be resolved in favour of either party at bail stage. The second is that the FIR was delayed without explanation. However, the record reflects that this *prima facie* was not so. The FIR was in fact lodged upon an application under s. 22-A and B of the Cr.P.C as stated above and was promptly registered after appropriate orders. In any event, it is also settled law that delay alone is not a sufficient ground for the grant of bail and must be supported by other material, which in my view is not present in this case.

8. The offences under ss. 354A and 506-ii of the PPC are non-bailable and non-compoundable while that under s. 354A is punishable by life imprisonment and therefore falls in the prohibitory limb of s. 497(1) of the Cr.P.C and in which it is not ordinarily the accused’s right to claim bail. I have had the occasion

to hold in multiple previous bail cases, while referring to *Khalid Saigol v The State* PLD 1962 SC 495, that reasonable grounds of guilt of the offences contemplated in s. 497(1) of the Cr.P.C arise when the Court is “prima facie satisfied that some tangible evidence can be offered which, if left un rebutted, may lead to the inference of guilt before it can come to the conclusion that its discretion no longer exists.” In my view, such tangible material exists in the present case and that reasonable grounds for believing in the guilt of the Applicants are made out thereby disentitling them from the grant of bail under s. 497(1) of the Cr.P.C. The case of the Applicant No. 2 is also covered under s. 6(4) read with s. 2(g) of the 2018 Act and therefore he is also, in my view, not entitled to the extraordinary concession of pre-arrest bail on a tentative assessment of the material available.

9. Apart from this, the Applicants are also required for investigation purposes and their release at the extraordinary stage may result in hampering of investigation. It has been alleged that the police are attempting to arrest the Applicants due to some *mala fide* intention, however, there is only a bald allegation and no reasonable material is brought on the record to believe that the Applicants are being attempted to be humiliated in society. At this stage, it is difficult to believe that, in the prevalent societal practices and culture, a woman would ordinarily attempt to falsely implicate any innocent persons at the cost of her own inconvenience and where it is considered culturally unacceptable for a woman to go to court.

10. I may also note that Mst. Khadija, the grandmother of the Applicant No. 2 and the Complainant, was present in Court and again clearly supported the Complainant’s position. She also informed the Court that she had made strong and personal efforts to bring the Applicants on the right track but could not succeed.

11. For these reasons, I dismiss this application as regards both the Applicants with the following directions:

- i) Since this is a matter involving an under-eighteen juvenile accused, the IO shall proceed with the investigation as expeditiously as possible and submit a

final challan at the earliest. The learned Trial Court shall, when and if the final challan is presented and cognisance taken, proceed with the matter expeditiously and shall be bound to dispose of the case within three months from the presentation thereof under fortnightly progress reports to this Court and shall not allow any laxity to the parties or witnesses.

- ii) Since the Complainant has shown apprehensions of threat to her life and person, a copy of this order be communicated to the Senior Superintendent of Police (SSP) concerned who is directed to provide complete protection and safety to the Complainant as well as the witnesses.
- iii) It is clarified that the factual observations made above are tentative in nature and shall not prejudice the merits of the case in any manner.

**JUDGE**

**APPROVED FOR REPORTING**

***\*Faisal\****