

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

### Cr. Pre-Arrest Bail Application No. S-308 of 2025

**Applicants:**

1. Sudheer Ali S/o Muharam Khan
2. Jan Muhammad S/o Muharam Khan
3. Abdul Hafeez S/o Muharam Khan
4. Sikandar S/o Hakim Ali
5. Rehmatullah S/o Budhal Khan.

All by caste Kalhoro, residents of Dali, Taluka Bhiria, District Naushahro Feroze.

**Through** M/s Riaz Ali Shaikh and Shakeel Ahmed Siyal Advocate.

**Complainant**

Mst. Hawa, in person

**Respondent**

The State Through Syed Sardar Ali Shah, Additional Prosecutor General, Sindh.

**Date of hearing:**

04.08.2025.

**Dated of order**

04.08.2025.

### **ORDER.**

**Khalid Hussain Shahani, J---**Applicants Sudheer Ali and four others seek confirmation of the ad-interim pre-arrest bail granted to them by this Court vide order dated 17.04.2025, in a case bearing crime No. 24/2025, registered at Police Station Bhiria City for offences under Sections 354, 380, 381-A, 447, 506& 504 PPC.

2. The facts forming the basis of the FIR, as alleged by complainant Mst. Hawa, are that following the death of her father, Allah Dino Kalhoro, on 25.01.2025, the applicants, who are her cousins, began harassing her and her mother with the intent to illegally occupy their house. It is alleged that on 28.01.2025, the applicants, along with co-accused Ranjho, trespassed into her house, issued threats, and assaulted her by dragging her by her hair. The police were called to intervene. Subsequently, on 12.02.2025, the applicants allegedly broke the locks of the house, committed theft of a gold necklace valued at Rs. 5,50,000/-, two solar plates, a water motor, and other household articles, and

forcibly occupied the property. The FIR was lodged on 25.02.2025, pursuant to an order from the learned 1st Additional Sessions Judge/Justice of Peace Naushahro Feroze under Section 22-A, Cr.P.C.

3. The applicants initially sought pre-arrest bail from the Court of the learned 1st Additional Sessions Judge, Naushahro Feroze, which was dismissed via order dated 29.03.2025, primarily on the grounds that the applicants were nominated in the FIR and that the stolen articles were yet to be recovered. Aggrieved by this dismissal, the applicants have approached this Court.

4. Learned counsel for the applicants vehemently argued that the applicants are innocent and have been ensnared in a false and fabricated case. He submits that entire case is a consequence of a pre-existing property dispute, and the FIR is a malicious tool to pressure the applicants, who are the rightful legal heirs of the deceased owner of the house. He added, the FIR is a counter-blast to an application filed by applicant Jan Muhammad against the complainant's maternal uncles, which was allowed by a competent court on 06.02.2025, well before the lodging of the instant FIR. There is a significant and unexplained delay of about one month in the registration of the FIR, which casts serious doubt on the veracity of the prosecution's story. Reliance is placed on 2022 SCMR 1245. He also submits that there are material contradictions between the contents of the complainant's initial application under Section 22-A, Cr.P.C., and the FIR. It is pointed out that the names of applicants Rehmatullah and co-accused Ranjho were not mentioned in the initial application, which instead referred to "3 to 4 unidentified persons." Furthermore, the description of stolen goods differs. He put stance that co-accused Ranjho is an active-duty soldier in the Pakistan Army and was allegedly not present at the scene on the date of the incident, a fact which, if verified, would render the entire prosecution case doubtful. The allegations in the FIR are general in nature, and no specific role has been attributed to each applicant. The alleged offences, particularly Section 380 and 381-A PPC, do not fall within the prohibitory clause of Section 497(1) Cr.P.C., and in such cases, the

grant of bail is the rule and refusal an exception. Reliance is placed on PLD 2017 SC 733.

5. Conversely, the learned Deputy Prosecutor General, assisted by the complainant in person, has staunchly opposed the confirmation of bail. It is argued that the applicants are nominated in the FIR with a specific role. The delay in lodging the FIR has been explained, as the complainant was diligently pursuing her legal remedy for its registration. It is further contended that the applicants are attempting to deprive a lone woman of her rightful inheritance and that the valuable stolen articles are yet to be recovered, for which the custodial interrogation of the applicants is essential. It is prayed that the application be dismissed.

6. I have heard the arguments from both sides and have meticulously perused the record, including the order of the learned lower court.

7. At the bail stage, the court is not required to conduct a detailed examination of the evidence, but rather to form a tentative assessment of the material on record. The Honourable Supreme Court in *Jamaluddin v. The State* (2023 SCMR 1243) has reiterated that if the assessment of the available material creates a reasonable doubt that the accused might not be guilty, the case would fall within the ambit of further inquiry, warranting the grant of bail.

8. In the present case, several factors combine to cast a shadow of doubt over the prosecution's narrative. The existence of a prior property dispute is admitted. The filing of a an application seeking protection granted by the same court vide order dated 06.02.2025 against the complainant's relatives *before* the registration of this FIR lends credence to the applicants' claim of malice and false implication. Most significantly, the contradictions between the complainant's initial application and the final FIR regarding the number and identity of the accused persons are not minor discrepancies. The omission of two names, later included in

the FIR, suggests deliberation and improvement, which strikes at the root of the case's authenticity.

9. The assertion regarding the alibi of co-accused Ranjho, if found to be true, would be a critical blow to the prosecution's story, as he is alleged to have played a central role. While the veracity of this claim is a matter for the trial, its mere plausible existence at this stage adds substantial weight to the argument for further inquiry.

10. While the learned lower court rightly noted that the non-prohibitory nature of an offence is not a blanket license for bail, this principle must be weighed against other circumstances. When, as in this case, the very foundation of the prosecution story appears to be shaken by contradictions, prior enmity, and potential falsehoods, the non-prohibitory nature of the offences further tilts the balance in favor of granting bail. The need for custodial interrogation for the recovery of articles cannot be used as a punitive measure, especially when the commission of the offence itself is subject to serious doubt.

11. For the foregoing reasons, I am of the tentative view that the applicants have successfully made out a case for the grant of pre-arrest bail, as there are sufficient grounds to believe that the matter requires further inquiry as contemplated by Section 497(2) Cr.P.C.

12. Consequently, this application is **allowed**. The ad-interim pre-arrest bail granted to the applicants on 17.04.2025 is hereby **confirmed**, on same terms and conditions.

13. It is clarified that the observations made herein are tentative in nature and shall not, in any manner, influence the trial court in its final determination of the case based on the evidence adduced.

J U D G E