

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

Criminal Bail Application No. S-409 of 2025

Applicants : 1. Aqeel Ahmed @ Aqeel s/o Ali Hassan  
2. Saleh Muhammad s/o Ali Hassan, both Qazi  
by caste  
Through Mr. Shabbir Ali Bozdar, Advocate

Complainant : Shabbeer Ahmed, through Mr. Rukhsar Ahmed  
Junejo, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 11.08.2025  
Date of Short order : 11.08.2025

### **O R D E R**

**KHALID HUSSAIN SHAHANI, J.** – Applicants Aqeel Ahmed @ Aqeel and Saleh Muhammad seek pre-arrest bail in a case bearing crime No.57 of 2025, registered at Police Station Daharki, for offence under Sections 337-F(vi), 337-A(i), 337-L(ii), 504, 147 & 149 PPC. Their similar plea had earlier been declined by the learned Additional Sessions Judge, Daharki, vide order dated 08.05.2025.

2. The prosecution case, as set forth in the FIR lodged on 22.04.2025 by complainant Shabeer Ahmed, is that on 20.04.2025, at about 6:00 a.m., he along with his nephews Aijaz Ahmed and Riaz Ahmed was proceeding to the Bharchoondi graveyard when they were allegedly intercepted by the present applicants along with their real brothers Adeel Ahmed and Shakeel Ahmed, and an unidentified person, all armed with lathis. According to the complainant, the accused persons, who are related to him, were annoyed with him over a dispute relating to a constructed house on Plot No. 54. Civil litigation in respect thereof was pending in the Court of the learned Senior Civil Judge, Daharki. It is alleged that the accused abused the complainant, taunted him over filing the civil suit and then assaulted him with lathis. Specific roles were assigned in the FIR: Adeel allegedly struck the complainant's right wrist, Shakeel his left wrist, Aqeel Ahmed his head, while Saleh Muhammad and the unidentified

culprit struck him on his back. As per the FIR narration, the complainant fell to the ground, was rescued by his accompanying nephews, and thereafter obtained medical treatment at the Taluka Hospital, Daharki. Consequent upon; case was registered inter alia on above facts.

3. Mr. Bozdar, learned counsel for the applicants mainly argued that the applicants have been falsely implicated due to the admitted civil dispute; that four real brothers have been simultaneously roped in, which demonstrates mala fide and over implication; that there is inordinate and unexplained delay of two days in lodging the FIR despite the police station being only a short distance from the scene; that all cited prosecution witnesses are close relatives of the complainant, with no independent corroboration; and that there are material contradictions between the ocular account and the medical evidence, which undermine the prosecution's story. Learned counsel stressed that the injuries attributed to the applicants are on non-vital parts of the complainant's body: the injury assigned to Aqeel Ahmed is classified as *Shajjah-i-Khafifah* punishable under Section 337-A(i) PPC and that to Saleh Muhammad as "other hurt" under Section 337-L(ii) PPC, both of which are bailable. The only non-bailable section applied, namely Section 337-F(vi) PPC, does not fall within the prohibitory clause of Section 497 Cr.P.C. It was further argued that the investigation has since been completed, challan has been submitted, recovery of the alleged lathis is inconsequential, and the applicants have remained on interim pre-arrest bail since 16.05.2025 without absconding, tampering with prosecution evidence or misusing the concession. It was thus contended that the case, at the very least, requires further inquiry within the meaning of Section 497(2) Cr.P.C., and that the intended arrest of the applicants is actuated by mala fides. Learned counsel placed reliance on 2022 SCMR 1271, 2023 SCMR 1397, 2021 SCMR 1467, 2018 YLR 1765.

4. On the other hand, the learned Deputy Prosecutor General, duly assisted by the learned counsel for the complainant, opposed the confirmation of bail and submitted that the applicants are specifically nominated in the FIR with clearly assigned roles; that the injuries sustained by the complainant have been certified in the medico-legal report, with two of them falling within the definition of Ghayr-Jaifah Munaqillah under Section 337-F(vi) PPC, which is a serious, non-bailable offence; that the ocular account is consistent between the

FIR and the Section 161 Cr.P.C. statements of the eyewitnesses; that delay in lodging the FIR has been satisfactorily explained in view of the treatment of the injured; and that recovery of the weapons is still pending, for which the custody of the accused could be important. It was also contended that where enmity exists, it can also serve as a motive for the offence, not merely a ground for false implication, and that there are no extraordinary circumstances warranting the grant of pre-arrest bail.

5. I have heard the parties' submissions and examined the record. It is trite that pre-arrest bail is an extraordinary relief and is to be granted sparingly, where the Court is satisfied both on the merits that the accused is entitled to bail and that the intended arrest is mala fide or intended for ulterior purposes. In the present case, it stands admitted that there is a civil dispute pending in respect of the property which is the background to the occurrence; the FIR nominates not only the applicants but also their two real brothers and another person, which arrangement, on the face of it, suggests over implication. The injury attributed to applicant Aqeel Ahmed is classified as *Shajjah-i-Khafifah*, punishable under Section 337-A(i) PPC, and that to applicant Saleh Muhammad under Section 337-L(ii) PPC, both of which are bailable, with the solitary non-bailable provision applied being Section 337-F(vi) PPC, which does not attract the prohibitory clause of Section 497(1) Cr.P.C. The applicants have remained on interim pre-arrest bail for nearly three months, have joined investigation, have not been alleged to have misused the concession, and the challan has been submitted. These factors, taken cumulatively with the delay in lodging the FIR and the admitted enmity, bring the matter within the scope of "further inquiry" as envisaged under Section 497(2) Cr.P.C. Moreover, the element of mala fide in the intended arrest, evidenced by the sweeping nomination of four real brothers, cannot be ruled out for present purposes.

6. At this stage, the Court is required only to make a tentative assessment of the record without entering into a detailed appraisal of the evidence, which is the domain of the trial. The issues raised by the complainant and the prosecution, including the seriousness of injuries and consistency of eyewitness account, will be examined at trial. However, for the purposes of pre-arrest bail, the applicants have made out a case for its confirmation. Accordingly, the interim pre-arrest bail granted to applicants Aqeel Ahmed @

Aqeel and Saleh Muhammad vide order dated 16.05.2025 is confirmed on the same terms and conditions.

7. The observations herein are tentative in nature and shall not prejudice the case of either party at trial.

**J U D G E**