

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No. S- 448 of 2025.

(Hubdar Solangi Vs. The State)

Applicant : Hubdar S/o Gulshan Ali by Solangi, in person

The State : *Through, Mr. Nazir Ahmed Bhangwar, Deputy
Prosecutor General, Sindh.*

The complainant : Azhar Ali Solangi,
*Through M/s. Ghulam Ali Abbasi and Mumtaz Ali
Panhwar, Advocates.*

Date of hearing : 13.10.2025.

Date of Order : 13.10.2025.

ORDER

Ali Haider 'Ada', J:-, Through the instant application, the Applicant seeks the concession of pre-arrest bail in Crime No. 58 of 2025, registered under Sections 337-A(i), 337-F(i), 337-L, 337-F(v), 392, 147, 148, and 149, Pakistan Penal Code, at Police Station Waleed on 13.07.2025, on the complaint of Azhar Ali. Prior to this, the Applicant had earlier approached the learned Additional Sessions Judge-III, Larkana, seeking similar relief; however, his application for pre-arrest bail was declined vide order dated 07.08.2025.

2. The brief facts of the prosecution case are that the applicant, along with his co-accused, allegedly armed with dandas (sticks), forcibly entered into the house of the complainant, where accused Hubdar is stated to have instigated the co-accused and also inflicted a danda blow on the right thumb of prosecution witness Athar Ali. The remaining accused persons allegedly caused danda blows to other prosecution witnesses, namely Athar, Mazhar, and Suleman, who also sustained injuries during the said occurrence. It is further alleged that one mobile phone (ReadMe brand) was also snatched during the incident. Thereafter, the accused persons fled from the scene. It is further reflected from the record that the alleged incident was initially reported to the police on the same date, i.e., 29.01.2025; as the injured persons obtained a medical letter for treatment. Subsequently, the complainant moved an application under Sections 22-A and 22-B, Cr.P.C, and upon such proceedings, the complainant sought time to obtain orders for registration of the FIR, which was ultimately registered on 13.07.2025.

3. The applicant, present in person, while his counsel is called absent. The applicant submits that the parties are related to each other. According to the memo of his bail application, there is an unexplained delay in the registration of the FIR. It is further stated therein that the complainant has malafidely lodged the present case after a delay of about five months by recording a false version of the alleged incident. The applicant has also contended in Ground No.10 of his bail application that except for Section 337-F(v), PPC, all the other offences are bailable in nature, and even Section 337-F(v), PPC, does not fall within the prohibitory clause of Section 497, Cr.P.C. Hence, he prays for confirmation of his pre-arrest bail.

4. Conversely, the learned counsel for the complainant submits that due to political influence, the FIR could not be registered promptly, and it was only after filing an application under Sections 22-A and 22-B, Cr.P.C., that the same came to be registered. He further contends that there is no specific plea or ground in the bail application demonstrating malafide or ulterior motives on the part of the complainant. Learned counsel further argues that the entire bail application lacks any assertion that the case falls within the ambit of Section 497(2), Cr.P.C. (further inquiry). It is argued that a specific role has been attributed to the present applicant, and that subsequent to the incident, the applicant's brother, namely Shamsuddin, registered a false FIR against the complainant party in order to counterbalance the present proceedings. He further submits that the said FIR, bearing Crime No.77 of 2025 lodged by Shamsuddin, is totally false, and the complainant party therein is presently on bail. Learned counsel has placed reliance upon the case of *Muhammad Ali v. The State* (2025 MLD 381) and has also filed certain documents under the cover of his statement, which are taken on record.

5. On the other hand, the learned Deputy Prosecutor General supports the impugned order, contending that a specific role has been assigned to the applicant, and the injury in question falls under Section 337-F(v), PPC, which, although not within the prohibitory clause, is a non-bailable offence. He submits that pre-arrest bail is an extraordinary relief, to be granted only in exceptional cases, and the applicant has failed to demonstrate any malafide intention or ulterior motive on the part of the complainant. He also adopts and supports the arguments advanced by the learned counsel for the complainant.

6. Heard the learned counsel for the parties and examined the material available on record.

7. First and foremost, It is well-recognized that, at the pre-arrest stage, it is ordinarily difficult for an accused to prove the element of malafide through positive or direct evidence; however, the same may be inferred from the attending facts and circumstances of the case, if some credible indication or event suggests that the criminal law machinery has been set in motion with an oblique or ulterior motive. In this regard, reliance is placed upon the judgment rendered by the Honourable Supreme Court of Pakistan in the case of **Khalil Ahmed Soomro and others v. The State (PLD 2017 SC 730)**, wherein it has been held that:

5. Although for grant of pre-arrest bail one of the pre conditions is that the accused person has to show that his arrest is intended by the prosecution out of mala fide and for ulterior consideration. At pre-arrest bail stage, it is difficult to prove the element of mala fide by the accused through positive/solid evidence/materials and the same is to be deduced and inferred from the facts and circumstances of the case and if some events-hints to that effect are available, the same would validly constitute the element of mala fide. In this case, it appears that net has been thrown wider and the injuries sustained by the victims except one or two, have been exaggerated and efforts have been made to show that the offences are falling within those provisions of law, punishable with five years or seven years' imprisonment. All those aspects if are combindly taken, may constitute element of mala fide.

8. Furthermore, reference may be made to the case of **Mazhar Ali v. The State (2025 SCMR 318)**, wherein the Honourable Supreme Court of Pakistan has held that it was not understandable that why the FIR was registered belatedly with a delay. In the present case, although the complainant is stated to have approached the police on the very day of the alleged incident, he failed to have his version formally recorded. As regards the plea of political influence raised by the complainant for such omission, it is pertinent to observe that the law provides an appropriate remedy in the form of an application before the Justice of Peace under Sections 22-A and 22-B, Cr.P.C., which the complainant admittedly invoked after a lapse of almost five months. Such unexplained and inordinate delay in seeking legal recourse creates doubt and gives rise to a reasonable possibility of false implication, which cannot be entirely ruled out at this stage.

9. Furthermore, reliance is also placed upon the case of **Muhammad Akhtar v. The State (Criminal Petition No. 310 of 2025)**, wherein it was observed that the offence under 337-F(vi), PPC, does not fall within the prohibitory clause of Section 497, Cr.P.C. The Honourable Supreme Court further held that in such like cases, grant of bail is a rule and its refusal is an exception, and that if the accused is denied the concession of pre-arrest bail, he would nonetheless be entitled to post-arrest bail, keeping in view the nature and extent of the punishment prescribed for the offences charged. It is also observed that the present case falls under Section 337-F (v), PPC, which, by its nature and the punishment provided therein, does not attract the prohibitory clause of Section 497, Cr.P.C.

10. As far as the contention of the learned counsel for the complainant regarding registration of a counter FIR by the other side is concerned, it is observed that the complainant party has also availed the benefit of bail in that case. At this stage, the Court is not required to determine the veracity or otherwise of either version, as such determination can only be made after completion of investigation and evaluation of evidence by the trial court.

11. In these circumstances, the applicant has succeeded in making out a case for confirmation of pre-arrest bail. Consequently, the interim pre-arrest bail already granted to the applicant is hereby confirmed on the same terms and conditions as contained in the earlier order, subject to his continued cooperation with the Investigating Officer and attendance before the trial court as and when required.

JUDGE