

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Appln. No.S-328 of 2025

Applicants : 1) Abdul Shakoor s/o Abdul Qadir @ Qadan
2) Javed Ali s/o Abdul Qadir @ Qadan
3) Shakeel Ahmed s/o Basheer Ahmed,
All by caste Thaheem,
Through Mr. Shabbir Ali Bozdar, Advocate

Complainant : Arslan Jani @ Shah Nawaz Khan
Through Mr. Nadeem Khan Lashari, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 08.09.2025

Date of order : 08.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J. –Applicants Abdul Shakoor, Javed Ali, and Shakeel Ahmed, seek confirmation of pre-arrest bail in a case bearing crime No. 83 of 2025, registered at Police Station “A” Section, Ghotki, for offences punishable under Sections 114, 452, 427, 337-A(i), 337-F(i), 147, 148 and 149, PPC. Their earlier application for similar relief was declined by the learned Additional Sessions Judge-II, Ghotki vide order dated 15.04.2025.

2. The prosecution story, as unfolded in the FIR, is that the present applicants, while armed with lathis and iron rods, criminally trespassed into the premises of the complainant and inflicted injuries on him as well as on prosecution witnesses namely Arbab Ali and Farhan Ali. Such narration prima facie demonstrates that the matter is of personal enmity and sudden occurrence, which ultimately appears to have been diluted owing to compromise between the parties.

3. Learned counsel for the applicants, at the very outset, submitted that the dispute has been amicably resolved between the private parties outside the Court and that the complainant as well as injured witnesses have extended their

consent to enter into compromise, which shall be placed before the learned trial Court through proper application. It was further urged that most of the penal sections listed in the FIR are bailable in nature and even the non-bailable provisions invoked do not fall within the prohibitory clause of Section 497(1), Cr.P.C, therefore the applicants are entitled to confirmation of pre-arrest bail. In support of this contention, reliance has been placed upon the celebrated judgment of the Hon'ble Supreme Court in the case of *Muhammad Tanveer v. The State & another* (PLD 2017 SC 733), wherein it was laid down that where the offence does not fall under the prohibitory clause, grant of bail becomes a rule and refusal an exception, unless extraordinary circumstances exist.

4. Learned Deputy Prosecutor General, in view of the settlement disclosed, has candidly conceded that he has no objection if interim bail already granted to the applicants is confirmed. Similarly, learned counsel for the complainant has stated on record that the dispute has been amicably resolved outside the Court and his client, who himself is an Advocate and present in Court, has no objection if the bail application is allowed. This open acknowledgment of compromise by the complainant and the fact that the main offences do not trigger the bar of Section 497(1), Cr.P.C., have considerably weakened the substratum of the prosecution case at this stage.

5. It is by now a settled principle that the object of pre-arrest bail is to protect an innocent person from the rigours of arrest and humiliation where the case is based upon malice, ulterior motives, or where the matter calls for further inquiry; besides, pre-arrest bail cannot be withheld by way of punishment and that considerations of mala fide or a settlement between the parties are sufficient to extend its concession. In case of *Zafar Iqbal v. Muhammad Anwar* (2009 SCMR 1488), compromise between the parties was treated as a strong circumstance justifying bail. Hence, where the complainant does not oppose

bail and declares compromise, no useful purpose would be served by keeping the accused exposed to arrest.

6. Applying the settled principles to the present case, it is evident that the complainant has not only forgiven the applicants but has verified the compromise in Court. The offences alleged are dominantly bailable, and those which are non-bailable still do not fall within the prohibitory clause. The principle of further inquiry, embodied in Section 497(2), Cr.P.C., thus comes into play, which itself furnishes a valid ground for confirmation of bail. In such circumstances, the evidentiary value of the allegations is to be determined by the learned trial Court at the time of recording evidence, and no fruitful purpose would be achieved by declining bail at this preliminary stage.

7. For these reasons, the interim pre-arrest bail already granted to the applicants vide order dated 21.04.2025 is confirmed on the same terms and conditions. It is, however, made absolutely clear that nothing stated herein shall be construed as an expression of opinion regarding the merits of the case, which shall be determined independently by the learned trial Court in accordance with law.

J U D G E