

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S – 1154 of 2025

Applicant : Imran Ali alias Imran s/o Qadir Bux alias  
Qurban Ali, Mirani  
*Through* Mr. Ali Raza Kalwar, Advocate

Complainant : Sikandar Ali S/o Ahmed, Mirani  
*Through* Mr. Zaheer Ahmed Kalwar, Advocate

The State : *Through* Mr. Muhammad Raza Katohar, DPG

Date of hearing : 23.02.2026  
Date of Short order : 23.02.2026  
Reasons recorded on : 25.02.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.—** Applicant Imran Ali alias Imran, has invoked the extraordinary and discretionary jurisdiction of this Court, seeking confirmation of pre-arrest bail in Crime No.37 of 2025, for offences under Sections 337-F(v), 337-A(ii), 337-A(i), 504, 147, 148 and 149, Pakistan Penal Code, registered at Police Station Andal Sundrani, District Ghotki, his earlier request having been declined by the learned Additional Sessions Judge-II, Ghotki, vide order dated 17.11.2025.

2. As per the prosecution version embodied in F.I.R No. 37 of 2025, on 28.10.2025 at about 10:00 a.m, the present applicant Imran Ali alias Imran, accompanied by co-accused namely Sain Rakhiyo alias Allah Rakhiyo armed with a hatchet, Saddam, Rustam and Manzoor all armed with lathies, and two unidentified persons allegedly armed with pistols, is stated to have constituted an unlawful assembly and to have proceeded towards Sundrani forest within the jurisdiction of P.S Andal Sundrani, District Ghotki, where complainant Sikandar Ali along with his nephew Abid Hussain and relative Shahban Ali had gone for cutting wood. It is alleged that, owing to a pre-existing monetary dispute, the accused persons, being aggrieved, on arrival at the spot hurled abuses at the complainant party and,

upon resistance, co-accused Sain Rakhiyo allegedly caused blows with the reverse side of his hatchet on the head and fingers of the complainant's right hand, resulting in his fall and cries of pain. The applicant is attributed the specific role of inflicting a lathi blow on the right arm of the complainant, whereas the remaining co-accused are alleged to have delivered further *lathi* blows on the complainant's right hand, right arm and right leg, besides resorting to fists and kicks to those who attempted to intervene. Thereafter, the accused persons are stated to have decamped from the scene. The injured were then escorted by the witnesses to obtain a police letter for medical treatment; upon receipt of the medico-legal certificate, the complainant lodged the F.I.R.

3. Learned counsel for the applicant has canvassed that the applicant has been maliciously roped in on account of previous enmity arising out of a monetary dispute inter se the parties. It is argued that the ocular account rests exclusively on the statements of related witnesses, allegedly positioned at some distance in the forest, and that no independent witness from the vicinity has been associated despite the incident having allegedly occurred in an open area. Learned counsel has further pointed to a delay of four days in setting the law into motion, which, according to him, remains unexplained and thereby renders the prosecution narrative susceptible to deliberation, consultation and embellishment. It is further urged that the injury attributed to the applicant, as reflected in the medico-legal certificate is located on non-vital part of the body *viz* arm, and not classified to be falling under prohibitory clause of Section 497(1) Cr.P.C; besides, no allegation of repetition is assigned against the applicant, thus bringing the matter within the ambit of further inquiry, as contemplated by section 497(2) Cr.P.C. It is also contended that the applicant is a respectable

person of the locality, having no likelihood of absconding, and that the case is still under investigation and has not yet been challaned.

4. Conversely, the learned DPG, assisted by learned counsel for the complainant, has vehemently opposed the application, contending that the applicant stands specifically nominated in the F.I.R with a distinct role of having caused a lathi blow on the right arm of the complainant, in addition to the injuries allegedly inflicted by the co-accused, which, it is asserted, stand corroborated by the medico-legal evidence. It is urged that the occurrence took place in broad daylight, that the assailants were fully identifiable and that the acknowledged monetary dispute between the parties, rather than creating doubt, furnishes a cogent motive for the assault. Learned law officer has further referred to prior F.I.Rs involving the accused and their family members, and to the precision with which the injuries have been described in the F.I.R, to contend that the assault was a concerted act, thereby disentitling the applicant to the concession of pre-arrest bail at this stage. Reliance has also been placed on settled principles governing pre-arrest bail, including the requirement of showing mala fides or ulterior motives behind the contemplated arrest.

5. Having heard the learned counsel for the parties and examined the material available on record. Upon a tentative scrutiny of the medico-legal report in juxtaposition with the specific role assigned to the applicant in the F.I.R, it *prima facie* emerges that the injury attributed to the applicant is categorized as *Ghayr Jaifah Hashmiyah*, 337-F(v) PPC, which is punishable up to five years as such not comes within the prohibition prescribed under Section 497 (1) Cr.P.C. The said injury, though allegedly caused with a *lathi*, is confined to non-vital part of the body and is not reported to be life-endangering. The seat and nature of such injury, at this interlocutory stage, does not irresistibly demonstrate a settled intention to

cause grievous harm, rendering the question of requisite *mens-rea* arguable and one that must be more appropriately thrashed out at trial. The investigation is admittedly in progress and the challan has not yet been submitted, whereas certain co-accused arising out of the same transaction have already been admitted to bail, thereby attracting, albeit tentatively, the principle of consistency, subject to the distinct roles and surrounding circumstances pertaining to each accused. In this backdrop, the precise degree of the applicant's participation, the nature of his intent and the overall veracity of the prosecution story are matters that necessitate a full-fledged appraisal of evidence before the learned trial Court.

6. Without embarking upon a fishing or roving inquiry, and bearing in mind that only a tentative assessment is permissible at this stage, the cumulative effect of the following features cumulatively brings the case within the sweep of "*further inquiry*" under section 497(2) Cr.P.C; (i) the F.I.R came to be lodged after a lapse of two days from the issuance of the medico-legal certificate, a hiatus which, though not inordinate, nevertheless provides an avenue for possible deliberation and consultation; (ii) the admitted monetary dispute between the parties, while supplying a plausible motive for the occurrence, simultaneously raises a reasonable possibility of false implication, thereby rendering the applicant's culpability open to debate; (iii) the injury attributed to the applicant is located on non-vital part of the body and is classified under section 337-F(v) P.P.C, which does not attract the prohibitory clause, whereas the more serious injury attributed to co-accused Sain Rakhiyo remains outside the direct role of the present applicant; (iv) the ocular account rests on the testimonies of related or interested witnesses, and whether they were positioned so as to observe the incident with clarity remains a matter for evidence; (v) multiple accused are arrayed with distinct and differentiated roles, some of whom already enjoy

the concession of bail, making the question of individual participation and common object of the alleged unlawful assembly quintessentially a matter for trial; and (vi) there is, at present, no material suggesting a likelihood of abscondence, tampering with the prosecution evidence or abuse of the concession of pre-arrest bail on the part of the applicant.

7. The Honorable Supreme Court has, in a catena of pronouncements, consistently propounded that where injuries are located on non-vital parts of the body and the question of intention, or of the precise provision ultimately attracted (including section 324 P.P.C), remains debatable, the matter would ordinarily fall within the realm of further inquiry, to be adjudged by the trial Court after recording of evidence. In *Jamaluddin and another v. The State* (2023 SCMR 1243), it has been held that where injuries are on non-vital parts and the assailant did not repeat fire despite having the opportunity, the applicability of section 324 P.P.C is to be determined at trial and such matters are to be treated as cases of further inquiry for purposes of bail. Similar principles that the mere gravity or label of the offence is not, by itself, conclusive for withholding bail and that the quality of incriminatory material, the nature and situs of injuries and surrounding circumstances must be tentatively evaluated, have been reiterated in *Khalil Ahmed Soomro and others v. The State* (PLD 2017 SC 730) and *Wajid Ali v. The State and another* (2017 SCMR 116). The same line of reasoning permeates the judgments reported as *Wahid Khan and another v. The State* (2025 MLD 938) and *Syed Zaman Shah and others v. The State* (2021 MLD 2106), wherein it has been held that where injuries do not squarely attract the prohibitory clause even in cases alleging *qatl-i-amd*, the accused are ordinarily entitled to bail on the touchstone of further inquiry.

8. Viewed through the prism of the above-referred jurisprudence, the case of the present applicant manifestly warrants a deeper probe at the

trial stage. At this juncture, there is no unequivocal material demonstrating a deliberate and pre-meditated intent on his part, or such active participation as would, ipso facto, disentitle him to the extraordinary relief of pre-arrest bail. On the contrary, his arrest in the existing circumstances is likely to occasion humiliation and undue hardship, with concomitant damage to his social standing, particularly when the matter, on the available material, conspicuously falls within the domain of further inquiry under section 497(2) Cr.P.C.

9. In the light of the foregoing discussion, this Court is persuaded to hold that the applicant, Imran Ali alias Imran, is entitled to confirmation of the ad-interim pre-arrest bail already extended to him. Accordingly, the interim pre-arrest bail earlier granted in his favor was confirmed on the same terms and conditions vide short order dated 23.02.2026. These shall constitute the detailed reasons for the aforesaid short order.

10. It is, however, explicitly observed that any remarks or observations contained herein are purely tentative and confined to the disposal of the present bail application, and shall not, in any manner, prejudice or fetter the learned trial Court in the ultimate adjudication of the case, which shall be made strictly on the basis of the evidence adduced and in accordance with law.

**J U D G E**