

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-148 of 2026

Applicant: Atif alias Babu son of Muhammad Hussain.
Through Mr. Bhuro Bheel, Advocate.

Complainant: Shahzad Idrees son of Muhammad Idrees.
Through Mr. Zahid Khalil Ansari, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G.

Date of hearing: 07.07.2026

Date of Order: 07.07.2026

ORDER

Khalid Hussain Shahani, J.— By means of the instant application, the applicant, Atif alias Babu, invokes the extraordinary jurisdiction of this Court seeking enlargement on post-arrest bail in a matter emanating from Crime No. 155 of 2025, registered under Sections 324, 337-A(i), 114 & 34 PPC of Police Station Tando Adam City. It is not in controversy, and stands admitted *inter partes*, that an antecedent application seeking parity relief was rebuffed by the learned Additional Sessions Judge-I, Tando Adam, per order dated 19.03.2026.

2. The prosecutorial narrative, as gleaned from the record, avers that on 14.07.2025, at about 1230 hours, in the vicinity of Sadique Baloach's hospital, the applicant, acting *in concert* with his brother Farhan and thereby sharing a purported *communio delicti*, is alleged to have inflicted incised wounds upon one Saim, targeting the left shoulder and left forearm with a sharp-edged weapon. The injured party was thereafter conveyed to a medical facility, culminating in the registration of the instant crime report on the aforesaid factual matrix.

3. Learned counsel appearing on behalf of the applicant contended, with considerable emphasis, that his client stands falsely enmeshed in the present prosecution *mala fide* and *animo nocendi*; that the First Information Report suffers from an unexplained and unbridged temporal lacuna of nine hours and thirty minutes between the occurrence and its

lodgment, thereby denuding it of evidentiary sanctity and offending the principle that delay, unless satisfactorily explained, casts a *shadow of doubt* over the veracity of the prosecution's version; that barring Section 324 P.P.C, which itself remains embroiled in the penumbra of further inquiry, the remaining offences are *ex facie* bailable, particularly given the Medico-Legal Officer's categorical opinion classifying the injuries as Shajjah-i-Khafifah under Section 337-A(i) P.P.C., an offence attracting a maximum sentence of two years' imprisonment; that the co-accused Farhan has already been extended the concession of bail by the trial court, thereby attracting the salutary rule of consistency, it being axiomatic that *similia similibus*, like cases ought to be treated alike; and that notwithstanding submission of the report under Section 173 Cr.P.C. and framing of charge, the prosecution has failed to examine even a solitary witness, while the applicant continues to languish in custodial confinement since his apprehension, rendering his further incarceration neither necessary for investigative purposes nor justified on the touchstone of further inquiry. In substantiation of these submissions, reliance was placed upon the precedents reported as *Saad Zia v. The State and others* (2023 SCMR 1898), *Jamaluddin and another v. The State* (2023 SCMR 1243), *Ali Raza v. The State and others* (2022 SCMR 1245), *Chaudhry Nadeem Sultan v. The State through P.G. Punjab and another* (2022 SCMR 663), *Abdullah v. The State through A.G. Khyber Pakhtunkhwa and another* (2020 SCMR 451), and *Abdul Razzaq v. 1st Additional Sessions Judge and another* (2015 YLR 2595).

3. *Per contra*, the learned Deputy Prosecutor General, fortified by the submissions of learned counsel for the complainant, resisted the grant of bail with considerable vehemence, urging that the gravity of the accusation and the *modus operandi* attributed to the applicant militate against the exercise of discretion in his favour.

4. I have accorded anxious consideration to the rival submissions advanced by learned counsel for the contesting parties and have, with their able assistance, meticulously perused the record placed before this Court, mindful throughout of the principle *audi alteram partem*.

5. A conspectus of the record reveals that the applicant's nomenclature finds explicit mention in the First Information Report,

wherein he is attributed with the infliction of seven incised wounds upon the person of the injured Saim. Such injuries have been medically certified as Shajjah-i-Khafifah, falling squarely within the contemplation of Section 337-A(i) P.P.C., an offence inherently bailable in character. Whether the applicant harboured and shared the requisite *mens rea* and common intention to attempt to commit qatl-i-amd, thereby attracting the rigours of Section 324 P.P.C., remains a matter that can only be conclusively determined *post* a full-dressed trial upon evidence led *viva voce*, and thus continues, for the present, to repose within the domain of further inquiry.

6. It further merits emphasis that despite submission of the report and framing of charge, the prosecution has, in the intervening period, failed to lead any evidence whatsoever, while the applicant remains under continued incarceration since the date of his arrest, with no ostensible requirement for his custodial presence for purposes of investigation. The allegations levelled against him thus remain, at this juncture, wholly unsubstantiated and rest merely at the threshold of accusation, it being trite that an accused is presumed innocent, *praesumptio innocentiae*, until proven guilty, and that the concession of bail cannot be withheld *sub colore* of punishment antecedent to conviction, for that would offend the cardinal maxim that bail, not jail, is the norm save in exceptional circumstances.

7. Upon a tentative and *prima facie* appraisal of the material available on record, this Court is persuaded that the case against the applicant falls within the well-recognized ambit of further inquiry, thereby obviating any sufficient justification for his continued deprivation of liberty. It is by now axiomatic and firmly embedded in our jurisprudence that where the culpability of an accused remains shrouded in reasonable doubt necessitating further inquiry, the grant of bail assumes the character of an entitlement flowing *ex debito justitiae*, as a matter of right owed in the debt of justice, rather than an act of judicial benevolence or grace.

8. In consequence of the foregoing discussion, the instant bail application is allowed, and the applicant, Atif alias Babu, is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of

Rs. 100,000/- (Rupees One Lac only), together with a personal bond in the like amount, to the satisfaction of the learned Trial Court.

9. It is, however, made abundantly clear that the observations recorded hereinabove are of a tentative and provisional character, confined strictly to the disposal of the instant bail application, and shall in no manner whatsoever prejudice or fetter the discretion of the learned Trial Court in adjudicating the matter on its intrinsic merits, the same having been rendered *sans* any final determination of guilt or innocence.

JUDGE

Adnan Ashraf Nizamani