

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Bail Application No. S-176 of 2026

Applicants: 1. Zeeshan S/o Irshad,
2. Irshad S/o Karnail Mashi,
Through Mr. Tarique Mehmood Arain, Advocate.

Complainant: Gulrez S/o Sardar Mashi,
Through Mr. Afzal Karim Virk, Advocate.

Respondent: The State.
Through Mr. Ghulam, Abbas Dalwani, D.P.G.

Date of Hearing: 27.07.2026

Date of Order: 27.07.2026

ORDER

Khalid Hussain Shahani, J.- Applicants Zeeshan and Irshad seek pre-arrest bail in a case bearing Crime No. 75 of 2026, for offence under Sections 337-F(vi), 147, 148, 149 and 504 P.P.C. of Police Station Sanghar, the like relief having been declined by the learned Additional Sessions Judge-II, Sanghar, vide order dated 15.04.2026.

2. The prosecution narrative, as unfolded in the F.I.R., discloses that on 08.03.2026, at about 1500 hours, an altercation arising from a longstanding dispute over a way/passage precipitated the incident in question. It is alleged that the complainant Gulrez, while traversing the disputed passage with his tractor for harvesting purposes, was intercepted near his residence by the present applicants Zeeshan and Irshad, armed with lathies, in the company of co-accused Sohail, Jawaaid and Yousif. Upon the complainant's father emerging from the house, the applicants are alleged to have inflicted lathi blows upon him, while the remaining accused resorted to kicks and fisticuffs. The commotion is said to have summoned private witnesses to the scene, upon which the assailants decamped, not before extending threats. The injured was conveyed for medical attention, and the F.I.R., significantly, came to be registered on 01.04.2026 only

pursuant to a judicial directive issued by the learned Additional Sessions Judge, Sanghar.

3. Learned counsel for the applicants, in advancing his submissions with considerable force, contended that applicants stand falsely implicated as a consequence of pre-existing animosity rooted in the passage dispute. He laid particular emphasis upon the unexplained delay of twenty-three days in setting the criminal law into motion, a delay for which the prosecution has proffered no plausible justification. He further submitted that the applicants have neither abused the concession of interim pre-arrest bail already extended to them nor have they, in any manner, obstructed the course of investigation. In fortification of his stance, learned counsel invoked the precedents reported as PLD 2017 Supreme Court 730 and 2025 YLR 999 [Sindh], and prayed for confirmation of the bail already granted.

4. Conversely, the learned D.P.G. for the State, ably assisted by learned counsel for the complainant, resisted confirmation with equal vigor, asserting the active and specific participation of the applicants in the commission of the offence.

5. I have heard learned counsel for the respective parties at length and have subjected the record to a careful and anxious perusal.

6. The unexplained delay of twenty-three days in the lodgment of the F.I.R., a delay rendered all the more conspicuous by the fact that the report came to be registered only upon judicial intervention, lends considerable credence to the defence version and elevates the prosecution's case to one demanding closer evidentiary scrutiny at trial. It is true that the applicants stand specifically nominated in the F.I.R., with the imputation of having inflicted lathi blows upon the injured Sardar Masih. The provisional medical certificate records two injuries, one of which is stated to fall within the contemplation of Section 337-

F(vi), P.P.C., the categorization of the other having been remained un-opined. Tellingly, the Medical Officer has since opined that only a solitary injury attracts the rigors of Section 337-F(vi), P.P.C. More significantly still, the *Roznamcha* Entry No. 3, recorded contemporaneously at 1735 hours upon the injured's admission to hospital, discloses nothing more than a generalized allegation of lathi blows against all five accused collectively, without any specific attribution of role or injury to any individual assailant. The subsequent crystallization of a specific, individuated role in the F.I.R. thus presents a discrepancy that calls for meticulous evidentiary appreciation, an exercise impermissible at the bail stage. It bears further note that while the medical certificate speaks of two injuries, the character of the second remains wholly undescribed, leaving unresolved the question of which accused is responsible for which injury, a matter necessarily reserved for determination at trial. It is not disputed that the offence falls outside the prohibitory clause of Section 497, Cr.P.C., and in offences of this genre, the grant of bail constitutes the rule, refusal being the exception, as authoritatively settled by the Hon'ble Supreme Court in *Tariq Bashir and others v. The State* (PLD 1995 SC 34) and *Muhammad Tanveer v. The State* (PLD 2017 SC 733). Viewed cumulatively, and against the backdrop of the unexplained delay in setting the law into motion, the case, on a tentative and prima facie assessment, squarely attracts the ambit of further inquiry contemplated under Section 497(2), Cr.P.C.

7. In view of the foregoing, the instant bail application is allowed, and the interim pre-arrest bail granted vide order dated 20.04.2026 is hereby confirmed on the same terms and conditions.

8. It is clarified that the observations made herein are strictly tentative in nature and shall not be construed so as to prejudice either party at the trial.

9. Disposed of accordingly.

JUDGE