

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.
Crl. Bail Application No.S-377 of 2026.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Applicants: 1.Ahsnullah @ Ahsan S/O Hazaro Mahessar
2.Sadaruddin S/O Allah Dino Mahessar
Through Mr.Shamsuddin No.Kobhar, Advocate.

The State: Through **Mr. Shafi Muhammad Mahar, D.PG.**

Complainant: Muhammad Azam S/O Jalaluddin Mahessar,
Through Mr. Parmanand, Advocate.

Date of hearing & order: 07.10.2026.

Suresh Kumar J:- Through instant Criminal Bail Application applicants/accused Ahsnaulalh @ Ahsan and Sadaruddin seek their confirmation of ad-interim pre arrest bail in Crime No.47 /2025 for the Offences Punishable U/Ss 324,506/2,337-H(ii), 337-F(iii), 337-F(vi) 337-A(i),114,504,148,149 PPC registered at Police station Dadloi District Sukkur.

2. Concisely, the facts of the prosecution case, as depicted in the FIR, are that on 28.07.2025 complainant Muhammad Azam lodged FIR Stating therein that on 27.7.2025 at 7.00 PM, the applicant Ahsan allegedly instigation while accused Muhammad Umar fired from his pistol upon Darban Ali, which hit him on his leg, accused Inayat fired from his pistol, which hit Darban Ali on right hand while applicant/accused Sadaruddin cause lathi blow on his head and back, due to dispute over damage caused to the crop by cattle of complainant. Such FIR was lodged. Earlier, applicants/ accused had filed pre-arrest bail application No. 1470/2025 of a similar nature before the learned Additional Sessions Judge-V, Sukkur, which was dismissed via order dated 01.08.2025. Being aggrieved by the said dismissal order, the applicants have approached this Court.

3. I have heard learned counsel for applicants, Learned counsel for complainant and learned D.P.G Sindh assisted by learned counsel for

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complainant. Learned D.P.G, for State and learned counsel for complainant have strongly opposed the confirmation interim pre arrest bail to the applicants/accused.

4. Having given due consideration to the arguments advanced by the parties' counsel and perused the material available on record, it is revealed from the perusal of the FIR that the applicant/accused Ahsanullah is allegedly assigned the role of instigation, while the applicant/accused Sadaruddin allegedly caused a lathi blow to the injured Darban on his head, and such injury has been declared as Shujjah-i-Khafifah, which is a bailable offence. The specific role of causing firearm injuries is attributed to co-accused Muhammad Umar. No firearm injury is attributed to the present applicants/accused, therefore, applicability of section 324 PPC against applicants/accused requires for further inquiry, while other sections applied in the FIR do not fall within the prohibitory clause of section 497(1)Cr.P.C. The learned counsel for the complainant has contended that there is no mala fide on the part of the complainant. Admittedly, the applicants have not shown any mala fide on the part of the complainant to falsely implicate the applicants/accused. No useful purpose will be served by refusing bail before arrest due to the technical ground of absence of mala fide, if otherwise, the applicants/accused have made out their case for bail after arrest on merits. In this regard reliance is placed upon the case of M. Ramzan v.Zafarullah (1986 SCMR 1380) and the case of Khalil Ahmed Soomro v. The state (PLD 2017 SC 730).

5. In similar circumstances, the Honourable Supreme Court in the case of Muhammad Akhtar v. The state and others (2025 SCMR 1631) has held as under:

“---S.497(2)& 498---Penal Code XLV of 1860) Ss.337-A(i),337-F9i) 337-F(vi) 337-L(2) & 34---Constitution of Pakistan Art.18593) ---Shaujjah-i-Khafifah ghayr-jaifah—damihayh, munaqqilah, causing hurt, common intention---Pre arrest bail, grant of ---Further inquiry----- Allegation against the petitioner was that he along with co accused caused fracture on the little finger of the complainant by giving blows with a wheel spanner---Legally speaking out of the offence with which the petitioner was charged, Section 337-F(i) 337-A(i) – and 337-L(2)

PPC were bailable and in such like offence bail was a right, whereas, punishment of the offence under Section 337-(vi) PPC did not fall within the prohibitory clause of section 497 Cr.P.C and in such like offences grant of bail was a rule and refusal thereof an exception---In such view of the matter, if petitioner was denied the extra ordinary concession of pre arrest bail, he would nonetheless be entitled to proded arrest bail, conserving the nature and extent of the punishment prescribed for the offences with which he stood charge---once the Court concluded that the accused would become entitled to post arrest bail upon dismissed of his pre arrest bail application, then requiring him to undergo incarceration would be a mere procedural formality devoid of any meaningful purpose----Petition was converted into an appeal and was allowed, in circumstances and accused was granted pre arrest bail.”

6. Similar view has taken by this Court in the case of Ghulam Rasool v.The State (2022 MLD 1088), wherein it has been held as under:

---S.498---Penal code(XLV of 1860) Ss 324,337A(ii) 147,148,149 337-H(ii) & 504 PPC---Attempt to commit qatl-i-amd, Shujjah-i-Mudiah hurt by rash or negligent act, rioting armed with deadly weapon, common object, abettor present when offence committed, intentional insult with intent to provoke breach of the peace---Pre-arrest bail, grant of---Further enquiry---Accused sought pre arrest bail in an FIR register under S. 324,337A(ii) 147,148,149 337-H(ii) & 504 PPC---Accused was admitted to pre arrest bail on an earlier date and the mater was fixed for confirmation of the said order---No complaint of misuse of concession of bail or tampering the record was pointed out---accused was regularly appearing in the case before the High Court as well as Trial Court, which fact was clear from the record---No motive was alleged against the accused for commission of the offence---prima facie, case against accused appeared to be doubtful benefit of which would go to the accused---Case of accused was one of further inquiry---interim pre arrest bail granted to the accused was confirmed, in circumstances”.

7. Moreover, the applicants/accused have been regularly attending this Court and have also joined the trial Court, and they have not misused the concession of ad-interim pre-arrest bail.

8. For the foregoing reasons and the guidance taken from the above case law, I am of the considered view that the applicants/accused have made out a case for the confirmation of interim pre-arrest bail. Therefore, the interim pre-arrest bail granted to the applicants/accused on 30.04.2026 is confirmed on same terms and conditions, with a directions to appear before the trial court.

9. Needless to say that the above observations are tentative in nature and will not prejudice the case of either party at the time of trial.

JUDGE

Hizbullah