

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S-594 of 2026

Applicants : Muhammad Daud & 05 others
Through Mr. Mehtab Ahmed Baloch,
Advocate along with applicants.

Complainant : Through Mr. Javed Miandad Chandio,
Advocate

The State : Through Mr. Muhammad Raza Katohar,
Deputy P.G.

Date of Hearing : 31-08-2026
Date of Order : 07-09-2026

ORDER

TASNEEM SULTANA, J.- Through this Criminal Bail Application, applicants Muhammad Daud, Khair Muhammad, Sher Muhammad, Ghulam Qadir, Akash and Muhammad Saleh seek pre-arrest bail in Crime No.36 of 2026, registered at Police Station Kot Laloo, District Khairpur, for offences under Sections 397, 452, 337-A(i), 337-F(i), 147, 148 and 149, PPC. Having been declined the same concession by the learned Additional Sessions Judge, Mirwah, vide order dated 09.06.2026, the applicants have approached this Court through the instant application.

2. The detailed facts of the case are already set out in the bail application and the FIR and, therefore, need not be reproduced in detail.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated on account of the previous dispute and litigation between the parties; that the alleged occurrence took place on 17.05.2026, whereas the FIR was lodged on 21.05.2026 after considerable delay, which afforded sufficient opportunity for deliberation and consultation; that despite the alleged possession of firearms, no shot was fired during the occurrence; that the injuries attributed to the applicants are not of a serious nature and the hurt offences do not fall within the prohibitory clause of Section 497(1), Cr.P.C.; and that their intended arrest, in the circumstances, is actuated by mala fide. He, therefore, prayed for confirmation of the interim pre-arrest bail already granted to the applicants.

4. Conversely, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, opposed the application and contended that all the applicants are nominated in the FIR from the outset and have been assigned roles in the occurrence; that the injured persons were medically examined and the injuries on their persons are supported by the medical record; that the prosecution witnesses have also supported the accusation during investigation; and that no material has been brought on record to establish mala fide behind the intended arrest of the applicants. They, therefore, prayed for dismissal of the application.

5. Heard. Record perused.

6. It appears from the record that the applicants are nominated in the FIR and have been attributed roles in the occurrence. Muhammad Daud is alleged to have caused a pistol-butt blow to complainant Mumtaz; Khair Muhammad, Sher Muhammad and Ghulam Qadir are attributed pistol-butt blows to the other injured persons, while Akash is alleged to have caused a hatchet blow to Mahmeer. Muhammad Saleh is shown armed with a hatchet and is alleged to have participated in the occurrence, though no specific injury is attributed to him. The injuries sustained by the injured persons have been classified under Sections 337-A(i) and 337-F(i), PPC, carrying punishment up to two years and one year, respectively, besides daman. Section 452, PPC carries punishment up to seven years, while Section 397, PPC prescribes a minimum punishment of seven years. The offences with which the applicants stand charged, though non-bailable, do not fall within the prohibitory clause of Section 497(1), Cr.P.C. In this regard, reliance is placed upon the case of Muhammad Tanveer v. The State and another (PLD 2017 SC 733), wherein the Hon'ble Supreme Court observed as follows:-

“Once the Court has held in categorical terms that grant of bail in offences not falling within the prohibitory clause of Section 497, Cr.P.C. shall be a rule and refusal shall be an exception, then the Courts of the country should follow the same principle in its true letter and spirit because consistency in law declared by the Court ensures the rule of law and confidence of Courts throughout the country including the Special Tribunals and Special Courts.”

7. The occurrence is alleged to have taken place on 17.05.2026 at about 07:00 a.m., whereas the FIR was registered on 21.05.2026 at about 05:00 p.m.

Though the injured persons were medically examined on the date of occurrence, the FIR was lodged after an interval of about four days. The delay, when viewed along with the nature of the injuries and the previous litigation between the parties, assumes significance while examining the plea of mala fide behind the intended arrest. In these circumstances, the case of the applicants calls for further inquiry within the meaning of Section 497(2), Cr.P.C. In this regard, reliance is placed upon the case of Salman Mushtaq and others v. The State through P.G. Punjab and another (2024 SCMR 14), wherein the Hon'ble Supreme Court observed as follows:-

“6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....”

8. In view of the above facts and circumstances, the applicants have succeeded in making out a case for grant of pre-arrest bail. Consequently, instant Bail Application is allowed and the interim pre-arrest bail granted to them vide order dated 18.06.2026 is confirmed on the same terms and conditions.

9. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

J U D G E