IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2203 of 2026

Applicants	:	Syed Habib-ur-Rehman & others Through Mr. Hameed Khan, Advocate
Respondent	:	The State *Through* Mr. Sharfuddin Kanhar, Assistant Prosecutor General Sindh.
Complainant	:	Syed Matiullah son of Syed Muhammad Hassan, *Through* Mr. Abdul Majeed Khoso, Advocate.
Date of hearing	:	26.10.2026
Date of Order	:	04.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. – Applicants Syed Habib-ur-Rehman and 5 others seek pre-arrest bail in a case bearing Crime No. 684/2026, for offence under sections 147, 148, 149, 324, 506-B, 427, 337-A(i), 337-A(iv) and 337-F(vi), PPC., of PS Ferozabad Karachi, after refusal of such concession by the learned Additional Sessions Judge-III, Karachi (East), vide order dated 16.07.2026.

2. The accusation, briefly stated, is that on 28.06.2026, the applicants, accompanied by their associates and armed with a rifle, iron rods and lathis, intercepted complainant Syed Matiullah and his brother Syed Inamullah at the disputed showroom situated on Khalid Bin Waleed Road, Karachi. Applicant Syed Habib-ur-Rehman allegedly resorted to direct firing, whereas the remaining applicants participated in the assault, causing injuries to the complainant party, subsequently classified under sections 337-A(iv) and 337-F(vi), PPC. The FIR was registered on 03.07.2026.

3. Learned counsel for the applicants contends that the prosecution is the culmination of a pre-existing dispute over possession and ownership of the showroom, already engaging the attention of the civil courts in Suits Nos. 11287/2025 and 12044/2025. He refers to FIR No. 663/2026, registered against the complainant party before the present occurrence, the competing version supported by medico-legal material, the delay in reporting the incident, absence of firearm injury and non-recovery of the alleged weapons. He further submits that the medical classification of injuries has been challenged before duly constituted Medical Boards and that five co-accused

have already been enlarged on post-arrest bail. Learned counsel principally relies upon PLD 2017 SC 730[1] and 2022 SCMR 1271[2].

4. Learned Deputy Prosecutor General, assisted by learned counsel for the complainant, has opposed the application, maintaining that the applicants are nominated with specific roles, the allegations are supported by ocular and medical evidence, and the occurrence is stated to have been recorded through CCTV cameras. He submits that the delay is satisfactorily explained, the civil dispute does not extinguish criminal liability and the applicants' roles are distinguishable from those of the bailed-out co-accused. Reliance has been placed upon 2019 SCMR 1129[3], 2022 SCMR 273[4], 2023 SCMR 1068[5], 2023 SCMR 975[6], besides PLD 2007 Karachi 336[7] and 2025 YLR 707[8].

5. Heard and perused. The principles governing pre-arrest bail are well settled. Such relief, although extraordinary, is designed to protect personal liberty against arrest actuated by mala fide, ulterior motives or abuse of criminal process. It is neither a substitute for post-arrest bail nor a concession available merely because the accused disputes the prosecution case. In Rana Abdul Khaliq (2019 SCMR 1129) and Ahtisham Ali (2023 SCMR 975), the Supreme Court emphasized the necessity of circumstances warranting extraordinary protection, together with a tentative assessment of the accusation under section 497, Cr.P.C. Conversely, Khalil Ahmed Soomro (PLD 2017 SC 730) recognizes that mala fide may be inferred from attending circumstances rather than established exclusively through direct evidence. These principles must be applied collectively, not mechanically.

6. Examined in this perspective, the record discloses circumstances which cannot be dismissed as inconsequential. The parties are admittedly embroiled in civil litigation concerning the very premises where the occurrence allegedly took place. More significantly, FIR No. 663/2026 was registered against the complainant party on 27.06.2026, preceding the present occurrence. The counter-version is supported by medico-legal material, while the present FIR was lodged about five days after the alleged incident. Although the prosecution attributes the delay to medical treatment and prior recourse to the police, its evidentiary significance, when considered against the background of antecedent hostility and competing accusations, requires further inquiry. Neither the existence of civil proceedings exonerates

---

[1] Khalil Ahmed Soomro and others v. The State.
[2] Muhammad Ijaz v. The State and others.
[3] Rana Abdul Khaliq v. The State and others.
[4] Qayyum Khan v. The State and others.
[5] Bakhti Rahman v. The State and another.
[6] Ahtisham Ali v. The State.
[7] Amjad Jawed v. The State.
[8] Tario alias Tara Chand v. The State.

an offender nor does registration of a counter-case establish false implication; nevertheless, these circumstances furnish a relevant foundation for assessing the bona fides of the intended arrest.

7. The allegation against applicant Syed Habib-ur-Rehman is comparatively serious, for he is assigned the role of direct firing and assault with the butt of a rifle. However, no firearm injury is alleged to have resulted, nor has recovery of the weapon or corresponding empties been demonstrated from the material presently examined. The remaining applicants are attributed participation in the assault through blunt weapons. Although the medico-legal certificates disclose injuries classified under sections 337-A(iv) and 337-F(vi), PPC, their classification has been questioned before the competent authorities, leading to constitution of Special Medical Boards. This circumstance does not invalidate the original medical opinions, but their ultimate evidentiary worth, the individual attribution of injuries and the applicability of constructive liability require assessment alongside the ocular and electronic evidence. The prosecution's reliance upon CCTV footage cannot be disregarded; equally, the mere reference to such footage, without judicial examination of its contents and evidentiary value, cannot conclusively settle the disputed individual roles. The question of intention or knowledge necessary for attracting section 324, PPC, likewise remains dependent upon the entirety of the circumstances.

8. It is pertinent that section 337-A(iv), PPC, carries imprisonment extending to ten years and consequently falls within the prohibitory clause of section 497(1), Cr.P.C., whereas section 337-F(vi), PPC, carries a maximum sentence of seven years. The prohibitory clause, however, does not dispense with the foundational requirement of reasonable grounds connecting an accused with the particular offence. In Muhammad Ijaz (2022 SCMR 1271), the Supreme Court considered the delay in registration, injuries sustained by the accused and the counter-version while extending pre-arrest protection. In Khalil Ahmed Soomro (PLD 2017 SC 730), it was held that an inference of mala fide may legitimately arise from the cumulative circumstances, including exaggerated allegations and over-implication. Though the latter decision concerned offences outside the prohibitory clause, its principle concerning inference of mala fide remains relevant.

9. The case law relied upon by the prosecution are distinguishable in their factual application. In Qayyum Khan (2022 SCMR 273), the accused was specifically implicated in causing injuries and no credible material displaced the prosecution's accusation. In Bakhti Rahman (2023 SCMR 1068), the Supreme Court declined to extend the rule of consistency to an accused

whose effective role materially differed from those of the bailed-out co-accused. Likewise, in Ahtisham Ali (2023 SCMR 975), pre-arrest bail was refused where the ocular and medical evidence supported the accusations and circumstances indicating mala fide were conspicuously absent. These decisions emphasize the necessity of assessing the actual incriminating material and do not exclude protection where the record independently discloses circumstances suggesting abuse of process. The order granting post-arrest bail to five co-accused in the present crime cannot, by itself, attract the rule of consistency, their implication and attributed roles being materially different.

10. The decisive consideration, therefore, is the cumulative effect of the record rather than the isolated infirmity of any particular piece of evidence. The earlier criminal case, competing versions of the confrontation, pending litigation concerning possession of the premises, delay in lodging the present FIR, disputed medical classifications and questions surrounding the individual attribution of injuries provide sufficient grounds for further inquiry. These circumstances also furnish an objectively ascertainable basis for apprehending that arrest may be employed to gain an advantage in the underlying dispute. No compelling necessity for custodial interrogation has otherwise been demonstrated. The learned Court below, while attaching considerable weight to the nomination of the applicants and the medical material, did not adequately examine these circumstances collectively. Its conclusion consequently warrants interference.

11. For the foregoing reasons, without expressing any definitive opinion on the merits, this application is allowed. The interim pre arrest bail grated to them is confirmed on same terms and conditions. The applicants shall cooperate with the investigating agency, regularly attend the trial proceedings and refrain from influencing witnesses or obstructing the administration of justice, failing which the prosecution may seek cancellation of bail in accordance with law.

12. All observations are tentative, confined exclusively to the disposal of this application, and shall not influence the trial Court, which shall determine the controversy independently on the evidence adduced before it.

J U D G E

Shahbaz