

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.2325 of 2025**

Applicants : Mumtaz Ali Awan, through Mr. Faraz Ali Abro,  
Advocate.

Complainant : Irfan Ali, through Mr. Tasawar Hussain,  
Advocate.

Respondent : The State, through Mr. Mumtaz Ali Shah,  
A.P.G.

Date of Hearing : 18.11.2025

Date of Order : 18.11.2025

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### **ORDER**

**TASNEEM SULTANA, J:** Through this Criminal Bail Application, the applicant Mumtaz Ali Awan seeks pre-arrest bail in Crime No.208 of 2025 under Section-337A(i), 337f(vi), 427, 506/34 PPC registered at Police Station Site Super Highway, Karachi. Earlier same relief was granted by the learned Additional Sessions Judge-I, Malir but was recalled vide order dated 02.05.2025.

2. The facts of the prosecution case, are that on 18-01-2025 at about 04:00 p.m. the complainant Irfan Ali was present at his house, situated at Katchi Abadi Wazir Brohi Goth, Scheme-33, Karachi, when his relatives Muhammad Ameen, Ghulam Mustafa, Mumtaz Ali @ Ahmed Ali and Ayaz Ali allegedly came to settle a dispute of landed property, during which altercation arose and all accused allegedly beat him while Muhammad Ameen allegedly struck an object on his arm. It is further alleged that the complainant's wallet containing Rs.40,000/- was also taken. The complainant claims that he was initially advised by elders not to lodge the matter but when the issue remained unresolved, he lodged the present FIR on 04.02.2025.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated due to the admitted civil dispute between the parties regarding landed property; that Civil Suit No.188/2024 is pending before the Senior Civil Judge Moro wherein interim status quo has been granted; that as per FIR the alleged incident occurred at Karachi on 18.01.2025; that the medico-legal certificate filed with his statement shows that the complainant visited RHC Sonahri Farm, District Naushero Feroze on 16.01.2025 at 07:30 p.m., a date prior to and unconnected with the alleged occurrence, and this document

remained un rebutted by the complainant's side; that the FIR is lodged with 17 days' unexplained delay; that the complainant obtained the police letter for medical treatment on 25-01-2025; that no independent witness has been associated; that no specific role beyond a general allegation is attributed to the present applicant; that no recovery is made from him; and that the matter calls for further inquiry.

4. Conversely, learned counsel for the complainant opposed confirmation of bail and argued that the applicant, along with others, inflicted injuries upon the complainant during the course of a land dispute; that the gravity of the allegations disentitles the applicant from extraordinary relief; that the complainant has consistently nominated the applicant with a specific role; and that the medical certificate supports the version narrated in the FIR, therefore the applicant does not deserve confirmation of pre-arrest bail.

5. Learned DPG for the State, has contended that the alleged incident took place on 18.01.2025 whereas the complainant obtained the police letter for medical treatment on 25.01.2025; that this intervening period prima facie brings the matter within the scope of further inquiry.

6. Heard. Record perused.

7. The record reflects that the parties are admittedly engaged in civil litigation over landed property. The FIR has been lodged after an unexplained delay of 17 days. The complainant approached the police for issuance of medical letter after about seven days of the alleged occurrence. The alleged injury attributed to the applicant falls under section 337-F(vi) P.P.C., which though non bailable, does not fall within the prohibitory clause of section 497 Cr.P.C., whereas the remaining offences are bailable. It further reflects that IO has failed to associate any independent witness from the locality despite alleged offence stated to be committed in the populated area. Further no specific role beyond a general and omnibus allegation is attributed to him. These circumstances, taken together, prima facie bring the case of the present applicant within the ambit of further inquiry.

8. It is well settled that where an offence does not fall within the prohibitory clause, acceptance of bail is the rule and refusal an

exception. Reliance in this regard can be placed on the case of Sheikh Abdul Raheem v. The State and another (2021 SCMR 822).

9. Similarly, the Honourable Supreme Court in the case of *Muhammad Tanveer V. The State and another* (PLD 2017 SC 733) has held as under:

*“Once this court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497 Cr.P.C shall be a rule and refusal shall be an exception then the courts of the country shall follow this principle in its’ letter and spirit because principles of law enunciated by this court are constitutionally binding on all courts throughout the country including the Special Tribunals and Special Courts.”*

10. In view of the above facts and circumstances, interim pre-arrest bail already granted to the applicants/ accused vide order dated 09.09.2025 was confirmed on same terms and conditions, by a short order dated 18.11.2025 and these are the reasons for the same.

11. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul