

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No.S-1135 of 2025

Applicant : Ghulam Mustafa s/o Khan Muhammad, Napar
Through Mr. Nathoo Lalwani, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 15.12.2025
Date of order : 15.12.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Ghulam Mustafa Napar, seeks confirmation of the interim pre-arrest bail earlier granted to him by this Court in a case bearing crime No.298 of 2025, for offences under Sections 506/2, 504 and 34 PPC, registered at Police Station “C” Section, Sukkur. The applicant’s request for similar relief had earlier been declined by the learned Additional Sessions Judge-IV (H), Sukkur vide order dated 06.11.2025.

2. The prosecution story, as set up in the FIR lodged by complainant Javed Ahmed, is that the complainant had initiated criminal miscellaneous proceedings against the present applicant and other police officials by alleging that they were involved in the murder of his father and seeking their arrest. It is the complainant’s stance that on 10.10.2025, he, along with his witnesses, namely Ghulam Asghar, Ghulam Hyder and Ghulam Akbar, attended the Court to pursue the said criminal miscellaneous application. The FIR further narrates that during the said visit to the Court, the present applicant, accompanied by his co-accused, allegedly confronted the complainant party within the court premises and expressed annoyance over the complainant’s having lodged an FIR and criminal proceedings against them, asserting that they would “*teach him a lesson.*” It is then alleged that at about 2:00 p.m., when the complainant and his witnesses, after conclusion of the court proceedings, reached near the WAPDA Office at Sessions Court Chowk, Sukkur, they were again accosted by the accused party. According to the complainant, accused Abdul Hafeez, PC Wahid Bux and PC Rafique allegedly

intercepted and restrained them, whereas the present applicant, Ghulam Mustafa, and co-accused Kamran allegedly took out pistols from the folds of their *shalwars* and extended threats of murder, warning that if the complainant did not withdraw the case lodged against them, they would kill him and his witnesses. During this episode, abusive language was allegedly used, creating a sense of fear and alarm in the complainant's mind. On the basis of this occurrence, the complainant lodged the instant FIR, resulting in the registration of the present case.

3. Learned counsel for the applicant, at the very outset, submitted that, on the face of the FIR and the challan, all the offences with which the applicant is charged are bailable, except the allegation falling under Section 506/2 PPC. It was urged that whether the alleged threats, in law and on the facts, amount to criminal intimidation of such a nature as to attract the aggravated clause of Section 506/2 PPC is itself a matter requiring evidence and determination at trial. At this stage, it cannot be conclusively said that the ingredients of Section 506/2 PPC are fully satisfied. Learned counsel contended that even assuming the allegation under Section 506/2 PPC to be attracted for the purposes of this application, the offence does not fall within the prohibitory clause of Section 497(1), Cr.P.C. He argued that where the offence does not come within the prohibitory clause, the consistent and settled principle laid down by the august Supreme Court of Pakistan is that grant of bail is a rule and refusal is an exception, and denial of such concession must be founded on the presence of extraordinary or exceptional circumstances such as likelihood of abscondence, misuse of concession of bail, tampering with the prosecution evidence, or where the case otherwise calls for custodial interrogation. Learned counsel further submitted that the applicant has remained on interim pre-arrest bail pursuant to order of this Court without any complaint of misuse of the concession. The challan has been submitted; the applicant has joined and cooperated with the investigation, and no recovery is

shown to be outstanding from him. It was thus argued that custodial arrest is not required for any legitimate investigative purpose, and any attempt to arrest the applicant at this stage would amount to a misuse of the process of law and an infringement upon his right to liberty and fair trial guaranteed under the Constitution.

4. In support of these submissions, learned counsel placed reliance on the case of *Muhammad Tanveer v. The State & another* (PLD 2017 SC 733), wherein the Hon'ble Supreme Court laid down that in offences not falling within the prohibitory clause, bail is to be granted as a matter of course in the absence of any exceptional circumstances justifying refusal. It was also submitted that in matters of pre-arrest bail, where mala fide, ulterior motive, or a design to humiliate or harm an accused appears from the circumstances, the superior courts are empowered to intervene to protect personal liberty.

5. Conversely, learned Deputy Prosecutor General, Sindh, appearing for the State, after going through the record and keeping in view the nature of the allegations, candidly conceded to the confirmation of pre-arrest bail. He submitted that, in the circumstances of the case, the applicant's custodial arrest is not required, especially when the challan has been submitted and no material has surfaced to suggest that the applicant has misused the interim relief granted to him, attempted to influence witnesses, or obstructed the course of justice.

6. I have heard the learned counsel for the applicant as well as the learned DPG for the State and have carefully examined the FIR, the material collected during investigation, and the relevant legal principles governing the grant of pre-arrest bail.

7. The record demonstrates that, except for Section 506/2 PPC, all other sections invoked in the FIR are bailable. The core question, therefore, is whether, at this tentative stage, there exists sufficient material to bring the applicant's alleged conduct squarely within the mischief of Section 506/2 PPC

in such a manner as would justify the denial of his liberty through arrest. The allegation, in essence, is that the applicant, while armed with a pistol, extended threats to commit murder if the complainant did not withdraw the case lodged against him.

8. Whether such allegation is the result of exaggeration, whether the applicant actually brandished a pistol, and whether the complainant's version is free from ulterior motive or embellishment are all matters which can be conclusively adjudged only after recording evidence at trial. At the stage of considering pre-arrest bail, this Court is required to make only a tentative assessment of the material on record. On such tentative assessment, the material does not, at this juncture, overwhelmingly suggest that the case is of such exceptional gravity as to warrant denial of bail in an offence which does not fall within the prohibitory clause.

9. It is by now a well-settled principle of law that in offences not falling under the prohibitory limb of Section 497(1), Cr.P.C, the rule is that of grant of bail and refusal is only an exception. This principle has been consistently reiterated, inter alia, in the landmark judgment of *Tariq Bashir v. The State* (PLD 1995 SC 34), wherein the Hon'ble Supreme Court held that in such like cases, strong and compelling reasons must be shown for declining the concession of bail. The same approach has been affirmed in *Muhammad Tanveer v. The State & another* (PLD 2017 SC 733).

10. In the present matter, no such special or extraordinary circumstance has been brought to the notice of this Court which would justify a departure from the settled rule. The prosecution has not alleged that the applicant is a previous convict, a hardened criminal, or a person who is likely to abscond or evade the process of law. There is also no material to indicate that the applicant has attempted to terrorize or influence the prosecution witnesses during the period he has been protected by interim pre-arrest bail.

On the contrary, it is admitted that he has joined the investigation and cooperated with the investigating agency.

11. It is also material to note that the challan has already been submitted before the competent Court of law, which is indicative of the fact that the investigation has been completed and the police no longer require the applicant's custody for any investigative purpose. In such circumstances, declining the concession of bail and remanding the applicant to custody would not materially advance the cause of the prosecution, but would only result in unnecessary curtailment of his liberty. Reliance in this context may be placed on the case of *Muhammad Saleem and others v. The State* (PLD 1986 SC 1380), wherein the apex Court emphasized that where custody of an accused is not required for further investigation, continued detention serves no useful purpose.

12. It is also pertinent to recall the well-recognized object of pre-arrest bail, which is to protect citizens against misuse of the process of arrest and to safeguard personal liberty where the circumstances suggest mala fide, ulterior motive, or the likelihood of irreparable humiliation and harassment. While mala fide is often inferred from attending circumstances rather than expressly alleged, in the present case, the pendency of prior proceedings by the complainant against the applicant and other police officials on allegations of murder of the complainant's father, coupled with the admitted fact that the occurrence is said to have taken place in or around court premises when the parties were engaged in pending litigation, calls for caution and reinforces the need for protecting liberty at least until the trial Court has the opportunity to assess the evidence in depth.

13. In the overall circumstances, when (i) the offences do not fall within the prohibitory clause of Section 497(1), Cr.P.C.; (ii) the investigation has been completed and challan submitted; (iii) there is no allegation of misuse of the concession of interim bail, abscondence, or tampering with the

prosecution evidence; and (iv) the State itself does not oppose the confirmation of interim pre-arrest bail, this Court finds no legal or factual justification to deny the relief sought. The applicant has succeeded in making out a case for confirmation of interim pre-arrest bail within the parameters laid down by the superior courts.

14. For the foregoing reasons, the instant criminal bail application is allowed. Consequently, the interim pre-arrest bail earlier granted to the applicant, Ghulam Mustafa Napar, vide order dated 24.11.2025, is hereby confirmed on the same terms and conditions.

15. It is clarified that the observations made herein are purely tentative in nature, confined exclusively to the decision of this bail application, and shall not prejudice the case of either party nor shall the trial Court be influenced thereby while recording evidence and deciding the case on merits.

J U D G E