

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-80 of 2026

Applicant : Ghulam Asghar alias Ali Asghar S/o Rabnawaz
Through Mr. Ali Dad Narejo, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 09.03.2026
Date of order : 09.03.2026

ORDER

KHALID HUSSAIN SHAHANI, J. — Applicant Ghulam Asghar alias Ali Asghar, seeks the concession of pre-arrest bail in connection with Crime No.18 of 2025, registered for the offence under Sections 337-A(ii) read with Section 34 of the Pakistan Penal Code, 1860, at Police Station Abdul Rehman Unar, District Khairpur. A prior application for pre-arrest bail preferred before the Court of the learned Additional Sessions Judge-III, Khairpur, was repelled vide order dated 10.12.2025.

2. The prosecution narrative, as crystallized in F.I.R. No.18/2025, reveals that on 01.06.2025, at about 06:30 a.m., the complainant Lal Bux, accompanied by his brother Muhammad Qasim and his brother-in-law Nasrullah, was proceeding towards his agricultural holding for the purpose of attending to his land. The complainant's minor daughter, Rafia, aged about seven years, was walking ahead of the party with the intention of attending Quranic recitation lessons. It is alleged that at this juncture, the applicant along with co accused Ilyas, Rabail and Allah Wadhayo emerged at the scene armed with lathis. It is specifically alleged against the present applicant that he raised a battle-cry (*hukkal*) and dealt a lathi blow upon the face of the minor girl, striking her upon the nose, whereupon she fell to the ground whilst raising cries of distress. The complainant and his companions, upon hearing the commotion, rushed to the scene and purportedly witnessed blood emanating from the injury sustained by the child. Upon the gathering of

residents of the locality, the accused persons allegedly fled from the site. The complainant thereafter conveyed his injured daughter to Police Station Abdul Rehman Unar, procured a letter of reference for medical examination, and subsequently had her examined and treated at the Civil Hospital, Pir Jo Goth. The crime report itself, however, was not lodged until 19.09.2025.

3. The learned counsel for the applicant has assailed the prosecution case on multiple grounds. It is his prime contention that the applicant has been falsely ensnared in this criminal proceeding on account of pre-existing matrimonial discord between the contending parties, thereby rendering the entire prosecution case a product of calculated mala fides. It is further urged with considerable force that the F.I.R has been lodged after an extraordinary and wholly unexplained delay of about three months and eighteen days from the date of the alleged occurrence, a circumstance which, according to the learned counsel, is intrinsically fatal to the credibility of the prosecution story at this stage. Learned counsel additionally submits that the witnesses arrayed by the prosecution are inter se closely related to the complainant and, therefore, their testimony is inherently interested and susceptible to embellishment. A further and distinct ground of entitlement is urged upon the principle of consistency, inasmuch as the co-accused Muhammad Ilyas, Rabail, and Allah Wadhayo, attributed with identical presence and similar participation at the place of occurrence, have already been extended the concession of pre-arrest bail by the learned trial Court through the very order dated 10.12.2025 that also declined the applicant's bail. It is lastly submitted that the instant case is one that calls for further inquiry within the contemplation of Section 497(2) Cr.P.C, and that the applicant is a respectable member of his locality who is prepared to cooperate unreservedly with the ongoing investigation without misusing any concession granted by this Court.

4. The learned Deputy Prosecutor General, in opposition, has urged that the applicant stands specifically nominated in the crime report with a definite, active, and distinct role of inflicting a lathi blow upon a minor girl and that the injury attributed to him has been medically classified as *Shajjah-i-Mudihah*, punishable under Section 337-A(ii) PPC, which is a non-bailable offence. It is argued that the ocular account finds robust corroboration in the medical certificate and the statements of prosecution witnesses recorded under Section 161 Cr.P.C, and that in such circumstances, the extraordinary relief of pre-arrest bail ought to be denied.

5. This Court has bestowed anxious and deliberate consideration upon the rival submissions advanced by learned counsel for the parties and has undertaken a careful perusal of the material placed on record. It is settled jurisprudential principle that at the pre-arrest bail stage, the Court is precluded from conducting a meticulous or definitive appraisal of the evidence; nonetheless, a tentative assessment of the cumulative incriminatory material remains not only permissible but obligatory for the purposes of determining whether the case falls within the contemplation of Section 497(2) of the Code of Criminal Procedure, 1898.

6. Upon such tentative scrutiny, this Court is constrained to observe that the alleged occurrence is stated to have transpired on 01.06.2025, whereas the F.I.R. was not set in motion until 19.09.2025, a delay spanning in excess of three months and eighteen days. Such a substantial hiatus, wholly unexplained on the face of the record, prima facie imports the possibility of deliberation, consultation, and embellishment prior to the registration of the case, thereby lending a degree of tentativeness to the prosecution's version that cannot be lightly discountenanced at this stage.

7. A further circumstance demanding advertence is the apparent and material discordance between the ocular account as set out in the F.I.R and the medical evidence placed on record. Whereas the F.I.R attributes to the applicant the infliction of a lathi blow upon the face of the minor girl, particularizing the nose as the seat of injury, the medical certificate categorizes the injury as *Shajjah-i-Mudihah*, an injury which, in its technical medico-legal signification, connotes a wound penetrating to the bone. This discrepancy between the nature of injury as alleged in the ocular account and as reflected in the medical certificate constitutes a circumstance of not inconsiderable significance, which inexorably calls for deeper scrutiny and measured appreciation of evidence during the course of trial, and which, at this preliminary juncture, sufficiently engenders doubt so as to bring the matter within the ambit of further inquiry.

8. Without venturing into a definitive appreciation of the evidence, a course proscribed at this stage, the cumulative effect of the following circumstances, viewed in their totality, brings the case squarely within the purview of further inquiry as envisaged under Section 497(2)

Cr.P.C:

- (i) The F.I.R. has been preferred after a prolonged and wholly unexplained delay of more than three months, which prima facie clouds the authenticity and spontaneity of the prosecution's narrative;
- (ii) The alleged motive is rooted in matrimonial disputes between the parties, a circumstance which raises the plausible hypothesis of false and motivated implication;
- (iii) The co-accused persons, to whom an identical role of presence and participation is attributed, have already been extended the concession of pre-arrest bail by the learned trial Court, and the principle of consistency demands that the present applicant not be singled out for differential treatment in the absence of any distinguishing feature; and

- (iv) The prosecution's case rests predominantly upon the testimony of witnesses closely related to the complainant, whose interested character shall inevitably fall to be tested and assessed upon the recording of evidence during trial.

9. The principles governing the grant of bail on the touchstone of further inquiry, and the imperative of not mechanically invoking the prohibitory clause merely by reference to the label of the offence without a qualitative assessment of the incriminatory material, have been authoritatively enunciated by the Apex Court in *Khalil Ahmed Soomro & others v. The State* (PLD 2017 SC 730) and *Wajid Ali v. The State & another* (2017 SCMR 116), wherein it was unequivocally laid down that the quality of the incriminatory material, the nature and precise seat of injuries, and the totality of surrounding circumstances must be tentatively evaluated rather than permitting the nomenclature of the offence to operate as a conclusive and determinative factor. The same thread of reasoning pervades the pronouncements reported as *Wahid Khan & another v. The State* (2025 MLD 938) and *Syed Zaman Shah & others v. The State* (2021 MLD 2106), wherein it was consistently held that where the injuries, upon tentative assessment, do not unambiguously and squarely attract the prohibitory clause, the accused ordinarily stands entitled to bail on the ground of further inquiry.

10. Having regard to the totality of circumstances, most conspicuously, the inordinate and unexplained delay in the registration of the F.I.R., the apparent contradiction between the ocular account and the medical evidence in relation to the nature and seat of the injury, and the extension of pre-arrest bail to co-accused persons bearing an analogous role, this Court is of the considered and deliberate opinion that the case of the present applicant is one that calls for further inquiry within the meaning of Section 497(2) Cr.P.C., and that the material presently

available on record does not afford sufficient justification for the denial of the extraordinary relief of pre-arrest bail. The applicant Ghulam Asghar alias Ali Asghar, is accordingly held entitled to the concession of pre-arrest bail, and the interim pre-arrest bail already extended to him is hereby confirmed on the same terms and conditions as previously imposed.

11. It is imperative to clarify, for the avoidance of any doubt, that all observations recorded herein are strictly tentative in character, necessitated solely by the exigencies of adjudicating the present application, and shall neither bind nor prejudice the learned trial Court, which shall proceed to determine the matter independently and exclusively on the basis of the evidence adduced before it, uninfluenced by any expression of opinion contained herein.

J U D G E