

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-1046 of 2025

Applicants : 1) Attaullah @ Laloo s/o Ali Hyder
2) Sanaullah s/o Ghulam Umar
3) Anees s/o Abdul Qadir
4) Qadeer @ Abdul Qadeer s/o Mullah Umar
All by caste Memon
Through Mr. Achar Khan Gabol, Advocate

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Cr. Bail Appln. No. S-1058 of 2025

Applicant : Abdullah s/o Ali Hyder, Memon
Through Mr. Achar Khan Gabol, Advocate

Complainant : Ghulam Hyder s/o Ashique Hussain, Mirani
Through Mr. Ali Gul Abbasi, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 16.01.2026
Date of order : 22.01.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Abdullah seeks the concession of post-arrest bail, whereas applicants Attaullah alias Laloo and the remaining co-applicants named above seek the extraordinary relief of pre-arrest bail in Crime No.346 of 2025, registered for offences under Sections 324, 452, 506/2, 504, 114, 337-H(ii), 147, 148 and 149, PPC at Police Station A-Section, Sukkur.

2. The prosecution case, in brief, is that on 10.10.2025 at about 10:30 a.m., the present applicants along with four unknown persons, allegedly armed with pistols, unlawfully entered the house of complainant Ghulam Haider, threatened him in connection with an ongoing tenancy dispute and, upon his refusal to withdraw the pending court proceedings, accused Abdullah is stated to have fired at the complainant, causing an injury to his foot; accused Attaullah is alleged to have fired at Asif, causing an injury on his back; accused Sanaullah is alleged to have struck Shoaib with

an iron rod on his chest; and accused Anees is alleged to have hit the finger of Mansoor with an iron rod, followed by aerial firing before they decamped from the scene. The injured were shifted to Civil Hospital, Sukkur and thereafter to River City Hospital, and the FIR was subsequently lodged on the basis of these assertions.

3. Learned counsel for the applicants submits that the parties are admittedly locked in a rent dispute over a shop situated at Barrage Road, Sukkur, which is already sub judice before the Rent Controller in Rent Application No.19 of 2025, and that the instant criminal case has been engineered only to exert pressure upon the applicants to vacate the premises. It is argued that there is an unexplained delay of about six hours in lodging the FIR despite the concerned police station being merely two furlongs away, which delay, on settled principles, provides sufficient room for deliberation and consultation. It is further contended that all the cited eyewitnesses are closely related to the complainant, with no independent witness from the locality having been associated; that the injuries are on non-vital parts of the body and, thus, do not bring the matter within the prohibitory clause of Section 497(1) Cr.P.C; that no weapon has been recovered from any of the applicants and the investigation is still in progress; and that in the cross-version, a counter-FIR has been registered in which Mansoor Ali, belonging to the complainant side, has already been granted post-arrest bail on the grounds of further inquiry, pendency of civil dispute, delay in FIR, and non-recovery of weapon, thereby attracting in favour of the present applicants the well-recognized rule of consistency and parity in bail matters.

4. Conversely, learned DPG, assisted by learned counsel for the complainant, strongly opposes the applications and contends that the applicants are specifically named in the FIR with clear and distinct roles attributed to each. It is argued that accused Abdullah fired with the intention

to commit murder, resulting in a fracture injury on the complainant's foot, while the co-accused are alleged to have caused firearm and blunt-weapon injuries to his relatives; that all injuries stand corroborated through Medico-Legal Certificates; that, given the allegation under Section 324, PPC, the case squarely falls within the prohibitory clause of Section 497, Cr.P.C; that the delay in lodging the FIR stands satisfactorily explained inasmuch as the injured were first taken for medical treatment; and that the reference to a pending civil dispute is only a ploy to secure bail in a case where sufficient incriminating material exists to require their custody for the purposes of trial. Perusal of the medical evidence reflects that complainant Ghulam Hyder received a firearm injury on the right heel with an exit wound on the left foot, with X-ray showing a metallic foreign body and fracture of the medial cuneiform, which has been opined as *Ghayr-i-Jaifah Hashimah* within the contemplation of Section 337-F(v), PPC. Asif is recorded to have sustained a grazing firearm wound on the upper back with blackening, without fracture, classified as *Ghayr-i-Jaifah Mutalahimah* under Section 337-F(iii), PPC, while Shoaib received a non-fatal chest injury likewise categorized under Section 337-F(iii), PPC. All the injuries are described as fresh and caused by firearm or blunt means; however, significantly, none has been characterized as *Jaifah* or otherwise life-endangering in nature.

5. Without embarking upon a meticulous evaluation of the evidence, which is the domain of the trial court, the following features, when viewed cumulatively, prima facie bring the case within the ambit of "further inquiry" envisaged by Section 497(2) Cr.P.C: (i) the six-hour delay in registration of the FIR despite the police station being situated at a short distance, coupled with the fact that the complainant admittedly remained conscious and had obtained police letters for medical examination prior to treatment, undermines the completeness of the explanation for delay; (ii) the

injuries, though attributed to firearm and duly supported by medical record, are located on non-vital parts and are not opined to be life-threatening; (iii) there is no allegation of repeated firing so as to unequivocally reflect a settled intention to commit *qatl-i-amd* of the complainant party, thus the precise applicability of Section 324 PPC to the facts of the case is a matter that can only be conclusively determined at trial; (iv) the existence of a pending rent dispute in Rent Application No.19 of 2025 demonstrates an underlying civil controversy that may have influenced the conduct and allegations of both sides; (v) a counter-FIR has admittedly been lodged by the accused side arising out of the same occurrence, which, in cross-cases of this nature, calls for a circumspect and tentative approach at the bail stage, since determination of aggressor and exact roles is essentially a question reserved for trial; (vi) no weapon has been recovered from any applicant despite specific firearm allegations, and the investigation has not yet attained finality; (vii) all eyewitnesses are related and injured witnesses, with no independent corroboration from the neighbourhood presently forthcoming; and (viii) there is no material on record to indicate that, after having been extended interim protection, the applicants have in any manner misused the concession or attempted to thwart the course of justice.

6. In addition to the above, the principle of consistency and parity comes into play with notable force, as Mansoor Ali from the complainant side in the counter-case has already been enlarged on post-arrest bail on the grounds that the matter calls for further inquiry, the injuries are on non-vital parts, and that, in view of the delay and non-recovery of weapon, the case does not fall squarely within the prohibitory clause. To decline analogous relief to the present applicants, arising from the same transaction and resting on a similar factual matrix, would offend the settled doctrine that like cases should receive like treatment, which stands repeatedly affirmed in bail jurisprudence.

7. At the bail stage, mere specific nomination, although a relevant consideration, is not decisive where the surrounding circumstances such as a parallel civil dispute, delayed FIR, existence of a cross-version, non-recovery of weapons, and the presence of only related eyewitnesses, introduce sufficient doubt to place the matter within the domain of further inquiry under Section 497(2) Cr.P.C. It is by now well settled that bail is the rule and jail is an exception, and even where an offence ostensibly falls within the prohibitory clause, the courts are obliged to examine the nature and quality of the available material, the possibility of false implication, and the need for deeper scrutiny, rather than treating the prohibitory clause as an absolute bar to the grant of bail.

8. With regard to Criminal Bail Application No. S-1046 of 2025 for pre-arrest bail, the same factors namely, the tenancy dispute indicating possible mala fides, the unexplained or inadequately explained delay in lodging the FIR, the cross-version, absence of independent corroborative witnesses, and non-recovery of weapons reasonably demonstrate that the applicants' arrest in the given circumstances would expose them to unwarranted harassment and humiliation. The overall context suggests that the criminal machinery is, at least *prima facie*, being invoked as a means of exerting pressure in aid of a civil remedy, thereby justifying the grant of extraordinary relief under Section 498 Cr.P.C. Reliance in this regard is placed on *Jamaluddin & another v. The State* (2023 SCMR 1243), wherein it is held that the complainant and the injured P.W received injuries on the non-vital parts of the body and the petitioners did not repeat the fire despite having ample opportunity to do so. In view of this matter, the question whether Section 324 PPC would be applicable in the case or not would be determined by the learned trial Court after recording of the evidence. Reliance is also placed on the cases of *Khalil Ahmed Soomro & others v. The*

State (PLD 2017 SC 730), *Wajid Ali v. The State & another* (2017 SCMR 116), *Wahid Khan & another v. The State* (2025 MLD 938) and *Syed Zaman Shah & others v. The State* (2021 MLD 2106), wherein, *inter alia*, it has been held that where injuries do not squarely fall within the prohibitory clause in cases of alleged attempt to commit *qatl-i-amd*, the accused are entitled to the concession of bail on the ground of further inquiry.

9. In view of the cumulative circumstances discussed above, the case of applicant Abdullah clearly falls within the purview of further inquiry under Section 497(2) Cr.P.C, entitling him to post-arrest bail, and the same set of factors simultaneously attracts the rule of consistency as well as the need to prevent misuse of the process of law in favour of the applicants seeking pre-arrest bail. Accordingly, Criminal Bail Application No. S-1058 of 2025 (post-arrest) and Criminal Bail Application No. S-1046 of 2025 (pre-arrest) are allowed. Applicant Abdullah is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.30,000/- (Rupees Thirty Thousand only) and a P.R bond in the like amount to the satisfaction of the trial Court; the interim pre-arrest bail already granted to the remaining applicants is hereby confirmed on the same terms and conditions. The applicants shall remain bound to appear before the trial Court and to attend and participate in the trial proceedings regularly, unless exempted in accordance with law.

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