

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-435 of 2025

Applicants : 1) Ghazi S/o Usman Khan  
2) Muhammad Ayoub S/o Ghazi  
3) Muhammad Akmal S/o Manzoor Ahmed  
4) Muhammad Aslam S/o Manzoor Ahmed  
All by caste Dashti Baloch  
5) Bashir Ahmed S/o Salar  
6) Ali Dost S/o Muhammad Usman  
Through M/s Amanullah G. Malik & Shabbir Ali  
Bozdar, Advocates

Complainant : Muhammad Younis S/o Khair Muhammad,  
Solangi Through Mr. Ch. Shahid Hussain Rajput,  
Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearings : 26.01.2026  
Date of order : 26.01.2026

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.**— The applicants seek confirmation of pre-arrest bail in a case braring Crime No.32 of 2025, for offences under Sections 302, 324, 114, 147, 148, 149 and 337-H(ii) PPC, registered at Police Station Khambhra, District Ghotki, their earlier plea having been declined by the learned Additional Sessions Judge/MCTC, Ubauro, vide order dated 13.05.2025.

2. As per FIR, on 27.03.2025 the complainant, claiming to be an eye-witness, attributed specific and repeated firearm shots to all nominated accused, including the present applicants, for the murder of Anwar Ali Solangi and injuries to Sajid Hussain, allegedly committed near CPEC Guddu Interchange in the backdrop of earlier murder litigation between the parties.

3. The applicants' counsel asserts that, owing to admitted previous enmity and their relationship with the principal accused, the applicants have been over-implicated; that the occurrence at a public place with available CCTV was not corroborated by independent witnesses; that

video footage shows only five assailants on two motorcycles, contradicting the number and roles assigned in the FIR; that some co-accused have already been arrested and owned their role; that applicant Ghazi is an aged local notable; and that the applicants, after grant of interim pre-arrest bail, surrendered, joined investigation and did not misuse the concession. Reliance is placed on recent pronouncements of the Hon'ble Supreme Court on the protective scope of pre-arrest bail and the doctrine of liberty in cases of mala fide, over-implication and further inquiry.

4. The learned DPG, assisted by learned counsel for the complainant, opposes the application on the ground that the applicants are nominated with specific roles of instigation and firearm use, attracting sections 302 and 324, PPC, in the context of an unlawful assembly armed with deadly weapons, that the case falls within the prohibitory clause, that the ocular account is supported by medical evidence and statements under section 161 Cr.P.C, and that pleas of false implication and effect of video footage require deeper appreciation not permissible at the pre-arrest stage.

5. Pre-arrest bail, though extraordinary, is firmly anchored in the constitutional guarantees of liberty, dignity, due process and fair trial, and acts as a safeguard against abuse of the power of arrest. The Supreme Court has clarified that this jurisdiction may be exercised where, on tentative assessment, indications of mala fide, false implication, or a case of further inquiry under section 497(2) Cr.P.C emerge, without embarking upon a microscopic appraisal of evidence.

6. During hearing, the defence produced a USB containing video footage of the occurrence, played in open Court in the presence of all concerned. A tentative viewing prima facie shows five persons at the

scene; only one appears to fire directly at the deceased and injured. The injured is also seen stating that the sons of Ghulam Ali fired upon them.

7. This contemporaneous electronic evidence materially undermines the FIR version, which attributes distinct and repeated firearm shots to a larger number of accused, including the present applicants. The footage, stated to have been subjected to forensic scrutiny, *prima facie* conflicts with the ocular narrative, and such conflict cannot be ignored at the bail stage when liberty is at stake.

8. The inconsistency between the FIR and the video recording creates a genuine and reasonable doubt about the correctness of the allegations against the applicants. Where multiple accused are ascribed active roles of firing, but objective electronic evidence suggests fewer assailants and a different sequence of events, the doctrine of “further inquiry” under section 497(2) Cr.P.C, as explained by the apex Court, stands attracted, entitling an accused to bail even in serious non-bailable offences when his involvement becomes doubtful on a tentative yet realistic assessment.

9. It is also undisputed that the parties are embroiled in prior criminal litigation, including a murder case, which lends support to the defence plea of possible over-implication. In cases stemming from enmity, courts have consistently cautioned against treating the entire array of nominated accused as necessarily culpable at the bail stage, particularly where objective circumstances indicate that fewer persons may actually be involved.

10. The defence further contends that the complainant is not visible in the video footage at the relevant time, despite projecting himself as an eye-witness in the FIR. While this issue is ultimately for the trial

Court to determine after evidence, at this stage the apparent absence of the complainant, when considered cumulatively with the contradictions noted above, fortifies the view that the prosecution version is not free from doubt and that the case of the applicants, at the very least, falls within the ambit of further inquiry under section 497(2) Cr.P.C.

11. After investigation, the Investigating Officer, in the report under section 173 Cr.P.C, placed the present applicants in Column No.2 for want of sufficient incriminating material, though the learned Magistrate, in exercise of powers under sections 190 and 193 Cr.P.C, disagreed and took cognizance, summoning them to face trial. While such cognizance is lawful and not exculpatory by itself, the investigating agency's conclusion remains a relevant factor that, when read with the contradictory video footage, the admitted enmity and plea of over-implication, substantially reinforces the view that the guilt of the applicants is open to serious doubt and that their case clearly falls within further inquiry. The superior Courts have held that Column No.2 placement, though not binding, tilts the balance in favour of bail in the absence of misuse of liberty.

12. It is not disputed that, after grant of interim pre-arrest bail, the applicants joined investigation and cooperated with the Investigating Officer. No material has been brought on record to show that they misused the concession, attempted to abscond, interfered with investigation, or tried to influence witnesses. Where incriminating material is equivocal and the accused has remained available to the investigating agency without complaint of non-cooperation, continued curtailment of liberty, particularly in the presence of objective contradictions, serves no legitimate purpose and is inconsistent with the protective rationale of pre-arrest bail.

13. In view of the cumulative effect of: (i) the apparent inconsistency between the FIR and the contemporaneous video footage; (ii) the admitted backdrop of enmity and the resulting possibility of over-implication; (iii) the applicants' placement in Column No.2 under section 173 Cr.P.C, subsequently overridden only by the Magistrate's disagreement; and (iv) their undisputed conduct in joining and not obstructing investigation, this Court, on a tentative appraisal, finds that the applicants' case squarely attracts the doctrine of further inquiry under section 497(2) Cr.P.C, wherein the benefit of doubt must lean in favour of liberty. The apex Court in case of *Saeed Ahmed v. The State* (PLD 2024 SC 1241) has reiterated the presumption in favour of liberty (*praesumitur pro libertate*) and held that once a case falls within further inquiry, grant of bail, even in grave offences, becomes a rule, absent disqualifying circumstances.

14. Consequently, the interim pre-arrest bail earlier granted to the applicants is confirmed on the same terms and conditions. The observations made herein are purely tentative, confined to the disposal of this bail application, and shall not prejudice the merits of the case, which shall be decided by the learned trial Court independently, strictly in accordance with law and on the evidence produced before it.

**J U D G E**