

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Cr. Bail Application No.S-**158** of 2026
(***Adnan Khalil and others v. The State***)

Mr. Ghulam Murtaza Korai, Advocate along with Applicants.
Mr. Gulshan Ahmed Shujra, Advocate holds brief on behalf of Mr.
Mushtaque Ali Shahani, Advocate for complainant a/w
complainant.
Mr. Sardar Ali Shah, Additional P.G for the State.

Date of Hearing: **20-07-2026**

Date of Order: **20-07-2026**

ORDER

ZULFIQAR ALI SANGI, J.- _Through the instant Criminal Bail Application, the applicants namely Adnan Khalil, Inayat Ali, Tajamul, Abdul Ghaffar and Tarique, all by caste Korai, seek confirmation of the interim pre-arrest bail granted to them by this Court in connection with Crime No.89 of 2025, registered at Police Station Dadloi, District Sukkur, for offences punishable under Sections 354-A, 337-H(ii), 504, 337-A(i), 337-F(i), 147, 148 and 149, Pakistan Penal Code. It is pertinent to mention that the applicants had earlier approached the learned trial Court for the same relief, but their application was declined vide order dated 21.01.2026. Thereafter, vide order dated 20.02.2026, this Court admitted the applicants to ad-interim pre-arrest bail, which is now sought to be confirmed.

2. Since the prosecution case has been elaborately narrated in the F.I.R., a copy whereof forms part of the bail papers, the same is not being reproduced herein to avoid unnecessary repetition.

3. Learned counsel appearing for the applicants contended that the applicants are wholly innocent and have been falsely implicated owing to longstanding hostility between the parties arising out of a landed property dispute. According to him, several civil and criminal proceedings are admittedly pending inter se, which furnish a strong motive for false implication. It is argued

that the occurrence allegedly took place in an agricultural field, which by no stretch of imagination can be regarded as a public place, nor does the F.I.R. disclose that the alleged act was committed with the intention of exposing the modesty of the complainant party to public view. He submits that such intention constitutes the sine qua non for attracting the penal consequences envisaged under Section 354-A, P.P.C. In absence thereof, the allegations, even if accepted at their face value, would at the highest constitute an offence under Section 354, P.P.C., which is admittedly bailable and punishable with imprisonment not exceeding two years, thus falling outside the prohibitory clause of Section 497, Cr.P.C. Learned counsel further argued that except Section 354-A, P.P.C., all other offences incorporated in the F.I.R. are admittedly bailable. Whether the facts ultimately constitute an offence under Section 354-A, P.P.C. or merely fall within the ambit of Section 354, P.P.C. is a question requiring thorough appreciation of evidence, which can only be undertaken after recording evidence during trial and not at the tentative stage of bail. It has further been argued that the allegations levelled in the F.I.R. are omnibus and general in nature, and no specific overt act or individual role has been attributed to any of the present applicants. It is also contended that the F.I.R. was lodged after an unexplained delay of approximately eight hours despite the alleged occurrence having taken place in broad daylight. Such delay, according to learned counsel, afforded sufficient opportunity for deliberation, consultation and embellishment, thereby rendering the prosecution version doubtful at least for the purposes of bail. Learned counsel next submitted that during investigation a Joint Investigation Team (J.I.T.) was constituted, which, after examining the available material, found the allegations to be false and recommended disposal of the case as "C-Class". Although the learned Magistrate did not accept such recommendation and took cognizance of the matter, the findings of the investigating agency nevertheless constitute a relevant circumstance which cannot be completely ignored while determining whether extraordinary relief of pre-arrest bail should be confirmed. Learned counsel lastly

submitted that after the grant of interim pre-arrest bail by this Court, the applicants have remained fully compliant with all conditions imposed by this Court. They have regularly attended the proceedings before the learned trial Court, joined the investigation whenever required, and have neither attempted to abscond nor misused the concession of bail in any manner whatsoever. He therefore prayed for confirmation of the interim pre-arrest bail. In support of his submissions, reliance has been placed upon *Mudassar Khursheed v. The State* (**2025 SCMR 1613**) and *Abdul Latif and another v. The State* (**1991 PCr.LJ 194**).

4. Conversely, the complainant, who is present in person, vehemently opposed the confirmation of pre-arrest bail and reiterated the allegations contained in the F.I.R. He submitted that sufficient incriminating material is available connecting the applicants with the commission of the alleged offences and prayed that the concession of pre-arrest bail be recalled.

5. Learned Additional Prosecutor General, while assisting the Court, fairly conceded that in the peculiar facts and circumstances of the present case, the essential ingredients necessary for constituting an offence under Section 354-A, P.P.C., are, prima facie, not discernible from the contents of the F.I.R. or the material collected during investigation. He candidly submitted that the alleged occurrence admittedly took place in an agricultural field and there is no allegation, either expressly or impliedly, that the applicants intended to expose the lady to public view, which is one of the indispensable ingredients for attracting the provisions of Section 354-A, P.P.C. He further conceded that admitted litigation regarding landed property exists between the parties and several criminal as well as civil proceedings are pending against each other, which circumstance cannot be overlooked at this tentative stage.

6. I have heard the learned counsel for the applicants, learned Additional Prosecutor General, as well as the complainant appearing in person, and have carefully examined the available record with their able assistance.

7. It is by now a settled principle of criminal jurisprudence that the extraordinary relief of pre-arrest bail is primarily intended to protect an innocent person from humiliation, harassment and abuse of the process of law where mala fide, ulterior motives or misuse of criminal machinery are prima facie apparent. Although such relief is extraordinary in nature and is not to be granted as a matter of course, yet where the attending circumstances reasonably indicate that the criminal process has been set into motion for collateral purposes, constitutional courts are under a legal obligation to extend protection against arbitrary arrest. In the present case, it is an admitted position that serious disputes relating to landed property exist between the parties and that both civil and criminal litigation is pending inter se. Such admitted enmity by itself may not be sufficient to discard the prosecution case altogether; however, it certainly furnishes a motive for false implication and calls for cautious examination of the allegations at the stage of bail. The only non-bailable offence incorporated in the F.I.R. is under Section 354-A, P.P.C., whereas all remaining offences are admittedly bailable. A careful reading of the F.I.R. reveals that although it is alleged that during the occurrence the clothes of one of the female members were torn, there is no averment whatsoever that the applicants intended to expose her to public view or that the alleged occurrence took place at a public place where such exposure actually occurred. On the contrary, the admitted case of the prosecution itself is that the occurrence took place in agricultural land.

8. A careful examination of the allegations contained in the F.I.R, read as a whole, reflects that one of the indispensable statutory ingredients for constituting an offence under Section 354-A, P.P.C., namely the intention of the accused to expose a woman to public view or to outrage her modesty by exposing her in a public place or in circumstances where such exposure is capable of being witnessed by the public, is conspicuously absent. It is a well-settled principle of criminal jurisprudence that every penal provision must receive strict construction and that before a particular penal section can be attracted, all the essential

ingredients prescribed by the legislature must prima facie be disclosed from the allegations contained in the FIR or the material collected during the course of investigation. Mere allegations of use of force, assault, or even tearing of clothes, without a corresponding assertion that such act was committed with the requisite intention of exposing the victim to public view or in circumstances envisaged by Section 354-A, P.P.C., would not, by themselves, automatically attract the rigours of the said provision. The element of intention assumes considerable significance, as it constitutes the distinguishing feature between an offence punishable under Section 354-A, P.P.C. and other allied offences relating to assault or use of criminal force against a woman. Consequently, where the allegations do not expressly or impliedly disclose that the accused acted with the intention of exposing the victim to public view, the applicability of Section 354-A, P.P.C. becomes a seriously debatable proposition requiring careful judicial scrutiny.

9. It is equally settled that, at the stage of deciding a bail application, the Court is not expected to undertake a meticulous examination of the evidence or record definitive findings regarding the precise penal provision ultimately attracted to the alleged occurrence. The jurisdiction exercised by the Court while considering bail is limited in nature and is confined to forming a tentative opinion on the basis of the material then available, without prejudicing the merits of the case to be determined during trial. Where the controversy involves interpretation of statutory provisions in the light of disputed factual assertions, the Court must exercise restraint and refrain from recording conclusive observations which may adversely affect either party at the subsequent stages of the proceedings. The question whether the facts alleged by the prosecution satisfy all the essential ingredients of Section 354-A, P.P.C., or whether they merely constitute an offence punishable under Section 354, P.P.C., is not a pure question of law capable of determination solely on the basis of the FIR. Rather, it is a mixed question of law and fact, the resolution whereof necessarily depends upon appreciation of oral and

documentary evidence, examination of the surrounding circumstances, the place of occurrence, the conduct and intention of the accused persons, the testimony of the complainant and other prosecution witnesses, as well as the overall factual matrix emerging during the course of trial. The determination of the accused persons' intention, which constitutes the gravamen of the offence under Section 354-A, P.P.C., can only be arrived at after the prosecution has led its evidence and the defence has been afforded a fair opportunity to cross-examine the witnesses and produce evidence in rebuttal, if so advised. Such exercise necessarily falls within the exclusive province of the learned trial Court, which is vested with the jurisdiction to record evidence, evaluate the credibility of witnesses, appreciate the material brought on record in accordance with the settled principles governing criminal trials, and thereafter return a definitive finding as to the nature of the offence proved against the accused, if any. Any observation made by this Court at the bail stage regarding the applicability or otherwise of Section 354-A, P.P.C. would amount to prejudging an issue that is yet to be adjudicated upon after full-fledged trial, which course has consistently been deprecated by the superior Courts. Therefore, while the apparent absence of a specific allegation regarding exposure of the victim to public view renders the applicability of Section 354-A, P.P.C. open to serious legal debate, the final determination as to whether the alleged acts constitute an offence under Section 354-A, P.P.C., Section 354, P.P.C., or any other cognate provision of law, is a matter that can only be conclusively decided by the learned trial Court after recording and appreciating the entire evidence in accordance with law. Until such determination is made, any opinion expressed at this interlocutory stage must necessarily remain tentative and shall not influence the merits of the case during trial.

10. Another significant circumstance which, at least tentatively, weighs in favour of the applicants is that the allegations levelled against them in the First Information Report are general, sweeping and omnibus in nature, without attributing any specific overt act or distinct role to any individual applicant. A careful reading of the

contents of the F.I.R. reveals that although several persons have been nominated as accused, the prosecution has failed to differentiate the role allegedly played by each of them in the commission of the occurrence. The allegations have been levelled collectively against all the applicants in a stereotyped manner, without identifying as to which accused committed which particular act, at what stage of the occurrence, and in what manner his individual conduct attracted criminal liability. Such lack of specificity assumes considerable legal significance, particularly where the prosecution seeks to fasten criminal liability upon multiple accused persons by invoking the principle of common object or common intention. It is by now a well-established principle of criminal jurisprudence that while common object or common intention may, in appropriate cases, render every member of an unlawful assembly vicariously liable for acts committed in prosecution of such common object, yet the prosecution is nevertheless required to disclose, at least prima facie, the individual participation or the specific part allegedly played by each accused so as to justify his implication. Mere nomination of several persons in a collective and generalized manner, without assigning distinct and identifiable roles, ordinarily creates a reasonable doubt regarding the exact nature and extent of their alleged participation, thereby rendering the case one calling for further inquiry within the contemplation of Section 497(2), Cr.P.C.

11. It is equally settled that while considering a bail application, the Court is not expected to presume that every allegation contained in the F.I.R. is beyond scrutiny merely because the accused have been nominated therein. Rather, the Court is under a legal obligation to tentatively evaluate whether the allegations disclose sufficient material connecting each accused individually with the commission of the alleged offence. Where the allegations are omnibus and no overt act has been attributed to a particular accused, the Courts have consistently treated such circumstance as a relevant consideration for extending the concession of bail, particularly where the prosecution case rests upon broad and

collective assertions instead of precise and individualized allegations. The necessity of assigning a specific role becomes even more pronounced in cases involving multiple accused persons, as the absence of such particulars renders it difficult, at least at the bail stage, to ascertain the precise degree of culpability attributable to each individual applicant.

12. The significance of the aforesaid circumstance becomes all the more apparent in the present case when viewed in conjunction with the admitted fact that previous hostility and litigation exist between the parties. The record prima facie indicates that the parties have been at loggerheads over their inter se disputes much prior to the registration of the present crime. It is a settled proposition that where previous enmity is admitted or otherwise apparent from the record, the same assumes a dual character. While such hostility may furnish a motive for the commission of an offence, it may equally provide a motive for false implication or exaggeration of the allegations by roping in as many members of the opposite faction as possible. The superior Courts have repeatedly observed that in cases arising out of admitted enmity, the possibility of false implication of innocent persons cannot be ruled out altogether and, therefore, greater caution is required while tentatively assessing the prosecution case at the stage of bail. The existence of previous hostility, coupled with the absence of specific allegations assigning distinct roles to each applicant, thus renders the prosecution case susceptible to further inquiry, the correctness or otherwise whereof can only be determined after recording evidence during trial.

13. Equally significant is the circumstance that the First Information Report came to be lodged after an unexplained delay of approximately eight hours from the alleged occurrence. Although mere delay in the registration of an F.I.R. may not, by itself, invariably prove fatal to the prosecution case, nor can it be regarded as an inflexible rule warranting the grant of bail in every case, nevertheless, where such delay remains wholly unexplained and is accompanied by other circumstances creating doubt

regarding the prosecution version, it assumes considerable legal significance, particularly for the limited and tentative assessment required at the stage of deciding a bail application. Prompt reporting of a cognizable offence is generally expected as it minimizes the possibility of fabrication, consultation or embellishment and lends assurance to the spontaneity and truthfulness of the prosecution version. Conversely, where there is a noticeable delay in setting the criminal law into motion and no satisfactory explanation is forthcoming either in the F.I.R. itself or from the material collected during investigation, the Court is justified in examining such circumstance with due care and caution while forming a tentative opinion.

14. In the present case, the prosecution has not offered any plausible or convincing explanation accounting for the delay of about eight hours in lodging the F.I.R. This unexplained interval, when viewed in isolation, may not conclusively demolish the prosecution case; however, when considered in conjunction with the admitted previous hostility between the parties, the omnibus nature of the allegations and the absence of specific roles assigned to the applicants, it undoubtedly assumes greater significance. Such delay prima facie afforded sufficient opportunity to the complainant party for consultation, deliberation and due reflection before approaching the police authorities, thereby creating the possibility of improvements, exaggeration or false implication of additional persons owing to the existing animosity. It is a settled principle of criminal law that where delay in lodging the F.I.R. remains unexplained, particularly in cases arising out of factional disputes or previous enmity, the same constitutes a relevant circumstance while assessing whether the prosecution version inspires confidence or calls for further inquiry. At the stage of bail, the Court is not required to conclusively determine whether such delay has in fact resulted in embellishment or fabrication; nevertheless, the existence of an unexplained delay certainly constitutes a factor which cannot be ignored while making a tentative assessment of the prosecution case. The cumulative effect of the unexplained delay, read together with the generalized

allegations and the admitted hostility between the parties, prima facie renders the prosecution version open to further probe during trial, where the veracity, credibility and evidentiary value of the prosecution evidence shall be tested through full-fledged cross-examination and appreciation of evidence in accordance with law.

15. The record further reflects that during investigation, the Joint Investigation Team initially found the allegations to be false and recommended disposal of the matter as "C-Class". No doubt, such opinion of the investigating agency is neither binding upon the Magistrate nor conclusive regarding the guilt or innocence of the accused; however, it nevertheless constitutes a relevant circumstance which may legitimately be taken into consideration while forming a tentative opinion regarding the existence of mala fide or the possibility of false implication.

16. It is also noteworthy that since obtaining interim pre-arrest bail from this Court, the applicants have continuously remained present before the learned trial Court and have faithfully complied with every condition attached to the concession of bail. No allegation has been levelled by either the prosecution or the complainant that the applicants attempted to evade the process of law, influence prosecution witnesses, tamper with evidence or otherwise misuse the concession extended to them. Their conduct during the subsistence of interim bail further persuades this Court to conclude that they deserve confirmation of the relief already granted.

17. The cumulative effect of the admitted previous enmity, the doubtful applicability of Section 354-A, P.P.C., the absence of any allegation regarding intention to expose the complainant to public view, the occurrence having allegedly taken place in an agricultural field, the general nature of allegations, the unexplained delay in registration of the F.I.R., the findings of the Joint Investigation Team recommending disposal of the case as "C-Class", coupled with the applicants' unimpeachable conduct after grant of interim protection, are circumstances sufficient to bring the case within the exceptional category where extraordinary relief of pre-arrest

bail deserves confirmation. At this tentative stage, the possibility of false implication with an ulterior motive cannot safely be ruled out.

18. For the foregoing reasons, and without expressing any opinion on the merits of the prosecution case, I am satisfied that the applicants have succeeded in making out a case for confirmation of the interim pre-arrest bail already granted to them. Accordingly, the instant Criminal Bail Application is **allowed**, and the interim pre-arrest bail granted to the applicants vide order dated 20.02.2026 is hereby confirmed on the same terms and conditions.

19. It is, however, clarified that the observations made hereinabove are purely tentative in nature and confined exclusively to the determination of the present bail application. The learned trial Court shall proceed with the trial independently and shall decide the case strictly on the basis of evidence produced before it, uninfluenced by any observation contained in this order.

J U D G E