

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3269 of 2025

Applicants : Ali Akbar, actual name Ghulam Akbar son of Ali, Ghanwar, actual name Ghanwar Khan son of Karim Bux, Umaid Ali son of Ahmed Ali, Through: Mr. Altaf Hussain Khoso, advocate

The State : The State: Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 16.02.2026

Date of Order : 16.02.2026

ORDER

Jan Ali Junejo, J:-- This order disposes of the captioned Criminal Bail Application, whereby the applicants seek pre-arrest bail in Crime No.34 of 2025 registered at Police Station Ketu Bunder for offences under Sections 506, 504, 427, 34, P.P.C., read with Sections 33 and 32(i) of the Forest Act, and Section 70 of the Cattle Trespass Act, 1871. The applicants had initially approached the learned Sessions Judge, Thatta, through Bail Application No.1155 of 2025, which was dismissed vide order dated 19.11.2025. Thereafter, this Court granted ad-interim pre-arrest bail to the applicants vide order dated 26.11.2025.

2. As per FIR lodged on 23.10.2025 at 1600 hours by Muhammad Khan son of Mevo Khan, Range Forest Officer, on 21.10.2025 at about 1300-1600 hours the complainant, accompanied by RFOs Zeeshan Ali and Abdul Aziz, Forester Abdul Ghafoor, and a boat driver Ali Akbar, while on official patrol in a government boat at

Khobar/Khober Creek within the mangrove forest area, allegedly witnessed the accused namely (1) Ali Akbar Murghar (actual name Ghulam Akbar), (2) Ghanwar Murghar (actual name Ghanwar Khan), (3) Lakhi/Pakhi son of Sikandar Perozani, and (4) Umaid Ali Murghar armed with sticks, who had allowed their buffaloes to graze on and damage the government's mangrove plantation; upon being restrained, the accused persons allegedly abused and criminally intimidated the complainant party and continued causing damage, which the complainant assessed at about Rs. 6,000,000/-, whereafter he reported the matter to his superiors and, on their direction, lodged the present FIR.

3. Learned counsel for the Applicants contends that the Applicants are innocent and have been falsely roped in due to existing civil/administrative dispute with the Forest Department regarding adjoining lands; that there is an unexplained delay of approximately two days and three hours in lodging the FIR despite the police station being about 27-28 kilometers from the locus; that all offences except Section 33 of the Forest Act are bailable and even Section 33 has been misapplied in the facts; that no independent witness has been associated, no photographs/videos have been collected, the alleged quantum of loss is unsubstantiated, and number of cattle is unspecified; that the Applicants have no antecedents, have joined investigation pursuant to ad-interim protection, nothing is to be recovered from them, and there is no likelihood of absconding or tampering as the witnesses are departmental subordinates of the complainant; that a related civil

suit is pending with a status quo order and co-accused in a connected matter have been granted bail; that the case does not fall within the prohibitory clause of Section 497 Cr.P.C., therefore the rule of bail applies. He prays for confirmation of ad-interim pre-arrest bail.

4. Conversely, learned Additional Prosecutor General opposes the application, arguing that the Applicants deliberately trespassed into a reserved mangrove forest, permitted illegal grazing, and thereby caused a substantial quantified loss to the exchequer; that they abused and intimidated public servants in the discharge of official duty, which amounts to obstruction of public functions; that the offence under Section 33 of the Forest Act is cognizable; and that pre-arrest bail is an extraordinary relief not to be granted in the absence of patent mala fide or ulterior motive. She prays for dismissal of the application and recall of interim protection.

5. I have considered the arguments advanced by learned counsel for the parties and have examined the record with their able assistance. It is settled law that at the bail stage only a tentative assessment of the material is to be undertaken, without entering into a deeper appreciation of the evidence. The relief sought is confirmation of pre-arrest bail under Section 498, Cr.P.C. The settled parameters require the Applicants to show, inter alia, (a) a prima facie case calling for further inquiry, (b) absence of likelihood of absconding or tampering, and (c) existence of mala fide, ulterior

motive, or misuse of process in effecting arrest; though the latter is not an inflexible sine qua non where the case otherwise warrants protection on merits and the offence is outside the prohibitory clause. The array of offences includes Sections 506, 504, 427, 34, P.P.C., and Sections 33 and 32(i) of the Forest Act, along with Section 70 of the Cattle Trespass Act, 1871. Except for Section 33 of the Forest Act, the invoked offences are bailable and do not carry punishment within the prohibitory clause of Section 497(1) Cr.P.C. Regarding Section 33 of the Forest Act, the statute is silent on bailability; thus the general provisions of the Cr.P.C. apply. Even if Section 33 is assumed to be a non-bailable offence on account of the prescribed punishment, it nevertheless does not fall within the prohibitory clause, which is primarily determined by offences punishable with death, imprisonment for life, or imprisonment for ten years. In similar circumstances, in the case of *Muhammad Amjad Naeem v. The State through Prosecutor General Punjab and another* (2025 SCMR 1130), the Honourable Supreme Court of Pakistan held as follows: *"The principle that bail should be granted as a rule and withheld only in exceptional circumstances, particularly in cases involving non-bailable offences, not falling within the prohibitory clause of section 497(1) Cr.P.C., has been developed and applied in numerous judgements of this Court"*.

6. The FIR was lodged on 23.10.2025 whereas the incident allegedly occurred on 21.10.2025. The explanation offered in the FIR is that the complainant first apprised his superiors and, acting on

their direction, lodged the FIR. While such sequencing may occur in departmental settings, the delay of about two days and three hours, given the stated proximity of the police station, does introduce an element of inference favourable to the defence at the bail stage, particularly when coupled with absence of contemporaneous material such as geo-tagged photographs, videography, seizure memos regarding damaged saplings, or quantified survey reports establishing the asserted loss of Rs. 6,000,000/-. The defence has placed on record pleadings and orders reflecting a subsisting civil dispute and interim status quo regarding adjacent lands, as well as prior litigation and bail orders in connected matters. Without entering upon the merits of civil claims, the existence of parallel civil proceedings and prior acrimony may not exonerate the Applicants, but it does render the allegation of malice/motive for false implication reasonably arguable at this stage. The FIR does not specify the number of animals or the expanse of the affected compartment, nor does it annex any preliminary assessment or any other documentary proof indicating the methodology of valuation. Determination of actual loss and attribution are matters for investigation and trial. At the bail stage, the paucity of independent corroboration raises a question of further inquiry within the meaning of Section 497(2), Cr.P.C.

7. The record does not indicate that any recoveries are to be effected from the Applicants. They have remained available during the period of ad-interim protection and joined investigation. There is no material suggesting that, if protected, they are likely to abscond.

The prosecution witnesses are public officials subordinate to the complainant. While intimidation of public servants is alleged, no specific post-FIR attempt at tampering or influencing witnesses is shown. Appropriate conditions can adequately mitigate any such risk.

8. Pre-arrest bail is indeed extraordinary; however, where (i) the case does not fall within the prohibitory clause, (ii) the material indicates arguable mala fide/civil backdrop, (iii) the delay and lack of independent corroboration suggest further inquiry, and (iv) no custodial requirement is shown, the protection against arrest can be extended, subject to stringent terms, to prevent potential misuse of process.

9. For the foregoing reasons, the Applicants have made out a case for confirmation of ad-interim pre-arrest bail on grounds of further inquiry, absence of custodial requirement, and adequacy of conditions to safeguard the investigation. Consequently, this Criminal Bail Application is allowed; resultantly, the ad-interim pre-arrest bail earlier granted to the Applicants, namely, (1) Ali Akbar actual name Ghulam Akbar son of Ali, (2) Ghanwar actual name Ghanwar Khan son of Karim Bux, and (3) Umaid Ali son of Ahmed Ali, in Crime No. 34 of 2025, Police Station Ketu Bunder, District Thatta, for offences under Sections 506, 504, 427, 34, P.P.C., read with Sections 33 and 32(i) of the Forest Act and Section 70 of the Cattle Trespass Act, 1871, is hereby confirmed on the same terms and conditions as contained in the ad-interim order dated 26.11.2025. Needless to observe that the observations made herein

are tentative in nature and shall not prejudice the case of either party during trial. These are the detailed reasons of the Short Order dated: 16-02-2026.

JUDGE

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