

ORDER SHEET
THE HIGH COURT OF SINDH, MIRPURKHAS CIRCUIT

Crl. Bail Application No. S-489 of 2026

Applicant : Ali Raza through Mr. Dilawar Hussain
Panhwar and Ms. Yasmeen Baloch,
Advocates.

Respondent : The State through Mr. Neel Parkash D.P.G.

Complainant : Riaz Ahmed through Mr. Mushtaque
Ahmed Abbasi, Advocate.

Date of Hearing : 07.10.2026

Date of Order : 07.10.2026

ORDER

Muhammad Humayon Khan, J.: Through this Criminal Bail Application under section 498, Cr.P.C., the applicant/accused, Ali Raza son of Badal Shar, seeks confirmation of ad-interim pre-arrest bail in Crime No.16 of 2026, registered at Police Station Dilber Khan Maher, under sections 506(ii), 504, 337-F(vi), 147, 148 and 149, PPC. His application was declined by the learned Additional Sessions Judge-II, Mirpurkhas, on 08-05-2026. His earlier Criminal Bail Application No.S-262 of 2026 was dismissed for non-prosecution on 31-08-2026. In the present application, he was admitted to ad-interim pre-arrest bail on 15-09-2026, without touching upon the merits, on the surety furnished in the earlier proceedings.

2. Briefly stated, complainant Riaz Ahmed son of Noor Muhammad Narejo lodged the FIR on 29-04-2026, alleging that relations between the parties were strained on account of a land dispute. According to him, on 01-04-2026 at about 1700 hours, he, his brother Umar, his uncle Mola Dad and his sister Mst. Aameena were working in the fields in front of their house when Badal Shar, Ali Jan Shar, Ali Raza Shar, Rabnawaz Shar and Ayoub Shar arrived armed with lathis and hatchets. After an exchange of abusive language and threats, the accused allegedly maltreated the complainant party. When Mst. Aameena raised cries, the present applicant allegedly inflicted a hatchet blow upon her hand. Badal Shar was also alleged to have inflicted lathi blows. The accused thereafter departed while extending threats. The complainant states that he obtained a police letter for treatment, took the injured to Civil Hospital,

Mirpurkhas, approached local notables without obtaining a settlement and subsequently lodged the FIR after obtaining the medical certificate.

3. By order dated 08-05-2026, the learned Additional Sessions Judge-II confirmed pre-arrest bail of Badal Shar, Ali Jan Shar, Rabnawaz Shar and Ayoub Shar, but declined confirmation to the present applicant on account of the particular injury attributed to him and the medical material. Thereafter, the applicant approached this Court in Criminal Bail Application No.S-262 of 2026. On 31-08-2026, neither the applicant nor his counsel appeared despite the matter having been called twice, and the application was dismissed for non-prosecution with recall of interim protection. The applicant explains that absence as a misunderstanding concerning the hearing date. His present application has already been entertained and interim protection extended on 15-09-2026. It is, therefore, appropriate to decide the prayer for confirmation on its merits rather than treat the earlier dismissal as an adjudication of guilt or of the substantive grounds now urged.

4. Learned counsel for the applicant, Mr. Dilawar Hussain Panhwar contended that the applicant has been falsely implicated owing to the admitted land dispute; that the FIR was lodged after twenty-eight days; and that the intervening period afforded an opportunity for consultation and deliberation. He submitted that the FIR mentions the right hand, whereas the principal injury recorded in the medical certificate concerns the left index finger, and that the medical history refers to an occurrence at the house of the injured's father rather than in the fields. He further maintained that the co-accused have already obtained bail, that the offences fall outside the prohibitory clause of section 497(1), Cr.P.C., and that the cumulative effect of these circumstances brings the case within further inquiry under section 497(2), Cr.P.C. He accordingly prayed for confirmation of pre-arrest bail.

5. Conversely, learned Deputy Prosecutor General, Mr. Neel Parkash assisted by Mr. Mushtaque Ahmed Abbasi, Advocate, bearing Reg No. 55458/LC/MPK who was granted permission to proceed in this matter, was appearing on behalf of Mr. Abdul Ghaffar Narejo, opposed confirmation on the ground that the applicant is specifically nominated as the person who inflicted the hatchet blow and that a substantial incised injury is documented in the medical record. He maintained that the applicant's role is distinguishable from those of the co-accused granted bail; that the complainant has furnished an explanation for approaching the police after treatment and obtaining the

medical certificate; and that the defence objections require examination at trial. He submitted that the material does not establish abuse of the criminal process warranting pre-arrest protection.

6. I have heard learned counsel for the applicant, learned counsel for complainant and learned Deputy Prosecutor General for the State and have perused the record with their assistance. The assessment at this stage is tentative. Neither the credibility of the witnesses nor the ultimate responsibility of the applicant is to be determined finally in bail proceedings. Equally, the Court must examine the defence circumstances cumulatively and cannot defer every objection to the trial merely because the applicant is nominated in the FIR.

7. The nature of the relief sought must first be kept in view. In *Azhar Pervaiz Bukhari v The State and another* 2024 SCMR 1719, the Honourable Supreme Court reiterated that pre-arrest bail is an extraordinary remedy and that the applicant must substantiate grounds warranting further inquiry and protection against mala fide prosecution or arrest. That decision arose from a dishonoured-cheque prosecution; its factual findings are not being applied to this injury case. Its relevance is confined to the principles governing pre-arrest protection. In *Muhammad Saeed v The State through A.G. Islamabad and another* 2025 SCMR 629, the Supreme Court further explained that mala fide need not be established by direct evidence and may be inferred from the surrounding circumstances. Consequently, the plea of the applicant must be tested against the record, without demanding direct proof of the complainant's state of mind.

8. The medical certificate assumes significance in this assessment. It records the incident on 01-04-2026 at about 1700 hours, arrival at the hospital at about 2130 hours and medical examination at about 2210 hours on the same evening. It describes an incised wound of the left index finger, measuring approximately 2 cm by 2 cm by 1 cm, extending to muscle depth, with active bleeding, black discoloration, irregular margins, fingertip avulsion, exposed underlying bone and restriction of movement. The radiological findings include a displaced fracture and a fracture at the base of the middle phalanx of the second digit. The orthopedic notes document treatment and strip closure in the operation theatre on 07-04-2026. Injury No.1 was ultimately classified as Ghayr-Jaifah Munaqqilah, corresponding to section 337-F(vi), PPC. The

certificate also records a separate abrasion on the palm of the right hand, without active bleeding or restriction of movement.

9. The distinction between the two injuries answers part, though not all, of the medical objection. The absence of active bleeding from the right-palm abrasion does not mean that the certificate records no bleeding whatsoever; active bleeding is expressly recorded in respect of the left index finger. Nevertheless, the FIR's attribution of the hatchet injury to the right hand, as against the left index finger described medically, is a discrepancy which must be put to the relevant witnesses. The Court cannot presume a clerical mistake or rewrite the FIR. At this tentative stage, however, the difference concerning the side of the hand does not by itself negate the contemporaneously documented incised injury or demonstrate that it was fabricated. Medical evidence does not identify the assailant; that attribution remains a matter for the prosecution to prove through evidence.

10. In *Mir Muhammad v The State through Prosecutor General 2024 SCMR 805*, pre-arrest bail was granted where the allegation of a firearm injury conflicted with medical findings of a sharp-cutting injury, a Special Medical Board subsequently found the injuries fabricated, and the investigating officer's material also supported the defence. The present record contains no comparable medical-board finding of fabrication. Here, the alleged use of a hatchet is compatible with the existence of an incised wound, although the right-hand/left-hand discrepancy remains unresolved. The authority requires careful scrutiny of medical inconsistencies; it does not make every difference concerning the seat of an injury conclusive proof of mala fide.

11. The difference concerning the place of occurrence has also been considered. The FIR describes fields in front of the complainant party's house, while the medical history refers to the father's house. The medical history is relevant, but the medical officer's examination establishes the physical condition of the injured rather than independently verifying the geographical location of the occurrence. Whether the descriptions concern the same immediate locality or different places requires evidence. Without resolving that question against the applicant, I do not consider this difference sufficient, in the context of the remaining material, to displace the prima facie allegation attributed to him.

12. The delay of twenty-eight days in registration of the FIR is substantial and cannot be dismissed as immaterial. The complainant, however, has stated that he first obtained a police letter, arranged treatment, approached local notables and lodged the FIR after obtaining the medical certificate. Importantly, the medical record documents examination on the date of the alleged occurrence, subsequent treatment and issuance of the final certificate before registration of the FIR. It therefore provides an earlier record of the injury, although it does not independently establish the applicant's identity as its author. The explanation for the entire interval, including the asserted approach to local notables, remains open to cross-examination. Considered with the same-evening medical examination, the delay does not, for the limited purpose of this application, compel an inference that the applicant was subsequently introduced through a fabricated injury narrative.

13. The admitted land dispute is a relevant circumstance supporting the defence allegation of hostility. It is also the setting in which the prosecution alleges that the assault occurred. Neither inference can be selected merely because a dispute exists. Applying *Muhammad Saeed 2025 SCMR 629*, I have considered whether the delay, medical differences, prior dispute and grant of bail to the other accused, taken together, sufficiently indicate a mala fide attempt to secure the applicant's arrest. In my tentative assessment, the specific allegation of the hatchet blow, read with the early medical examination and the nature of the documented injury, prevents that inference from being sufficiently established for confirmation of pre-arrest protection.

14. The rule of consistency equally requires comparison of the actual roles and material. The order dated 08-05-2026 distinguishes the present applicant, to whom the particular hatchet injury is attributed, from the other applicants whose bail was confirmed. In *Mudassar Khursheed v The State and another 2025 SCMR 1613*, the Supreme Court applied consistency where the roles of the petitioner and his co-accused were substantially at par, and also considered the non-prohibitory punishments. That principle is binding. In the present case, however, mere inclusion of all the accused in one FIR does not establish equivalence between the applicant's alleged infliction of the medically documented incised injury and the other roles. The co-accused's bail therefore does not, by itself, settle the applicant's entitlement.

15. The relationship of the complainant and the other named witnesses with the injured has also been considered. Their relationship

requires scrutiny of their evidence but does not, by itself, establish that the accusation is false. The alleged occurrence involves members of a family working near their house, and their presence cannot be rejected solely on that account. Nor can the applicant's case be decided on an assumption that a hatchet remains to be recovered or that custodial interrogation is indispensable; no such necessity is being presumed. The question remains whether the material and the applicant's circumstances justify continuation of pre-arrest protection.

16. I am conscious that section 337-F(vi), PPC, carries imprisonment extending to seven years, besides the prescribed arsh, and falls outside the prohibitory clause of section 497(1), Cr.P.C. The threatening and other offences invoked in the bail proceedings do not alter that position. The seriousness of the injury cannot enlarge the statutory punishment. *Tariq Bashir and 5 others v The State* PLD 1995 SC 34 establishes the ordinary rule favouring bail in non-prohibitory offences. The learned Court below's reasoning cannot be sustained merely by observing that the offence is non-bailable, because non-bailability and the prohibitory clause are distinct matters.

17. More directly, in *Muhammad Akhtar v The State and others* 2025 SCMR 1631, the Supreme Court granted pre-arrest bail in a case involving, amongst other provisions, section 337-F(vi), PPC, and a finger fracture. It held that an accused who would be entitled to post-arrest bail should not be incarcerated merely to fulfil a procedural formality. The same approach appears in *Khalil Ahmed Soomro v The State* PLD 2017 SC 730. These authorities preclude refusal simply because the application is for bail before arrest. Their application nevertheless requires consideration of the individual circumstances and conduct of the applicant rather than a mechanical conclusion based on the maximum sentence alone.

18. In the present matter, the applicant's previous failure to attend this Court despite repeated calls, leading to dismissal on 31-08-2026, is a relevant additional circumstance when considering continued pre-arrest protection. The explanation of misunderstanding has been considered; the earlier order does not establish abscondence and is not being treated as a merits decision. However, the Court is entitled to consider compliance with its process alongside the substantive material. *Muhammad Imran v The State* PLD 2021 SC 903 identifies the likelihood of abscondence to escape trial, interference with evidence or witnesses, and repetition of the offence as exceptions to the

ordinary rule in non-prohibitory cases. No finding of previous conviction, interference with witnesses or a subsequent offence is being made here. The prior non-appearance is being considered only for its bearing upon the applicant's adherence to the protection already extended by this Court; it does not, by itself, establish any of those exceptions.

19. *Qayyum Khan v The State and others* 2022 SCMR 273 illustrates that specific attribution of an injury cannot be displaced by an unsupported exculpatory assertion. That case concerned a different prosecution and does not create an absolute rule against bail whenever an accused is named. Its limited relevance here is that the applicant's general denial must be weighed against the actual medical and accusatory material. The conclusion reached in this application rests on the cumulative assessment already discussed, rather than nomination alone, the gravity of the allegation alone, or an assumption that post-arrest bail must necessarily be refused.

20. For these reasons, the applicant has not persuaded this Court to confirm the extraordinary protection of pre-arrest bail. The objections raised require examination at trial, but, assessed together with the contemporaneous medical material, the particular role attributed to the applicant and his earlier non-attendance, they do not presently furnish sufficient grounds for confirmation. The Criminal Bail Application is accordingly dismissed. The ad-interim pre-arrest bail granted to Ali Raza son of Badal Shar on 15-09-2026 is recalled; his bail bond stands cancelled and the surety stands discharged.

21. The learned trial Court shall proceed expeditiously and endeavour to conclude the trial within three months from receipt of this order, subject to the lawful requirements of a fair trial. The SSP, Mirpurkhas, shall ensure that the investigating officer and prosecution witnesses attend on the dates fixed by the trial Court. Unnecessary adjournments shall be avoided. Any subsequent application for post-arrest bail shall be decided independently under the applicable law and on the material then available, without treating this refusal of pre-arrest bail as conclusive of that application.

22. All observations made hereinabove are tentative and confined to disposal of this bail application. They shall neither prejudice either party nor influence the learned trial Court in determining the case on its merits.

The Criminal Bail Application stands disposed of in the above terms.

JUDGE

FAISAL