

THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Application No. S-221 of 2026

[Raja @ Suhail Ahmed and others Vs. The State]

Applicants	:	Through M/s. Habibullah G. Ghouri & Hakim Ali Bughio, Advocates
The State	:	Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh
Complainant	:	Through Mr. Muhammad Afzal Jagirani, Advocate
Date of Hearing	:	<u>26-10-2026</u>
Date of Order	:	<u>26-10-2026</u>

ORDER

ARBAB ALI HAKRO, J- Through this application, the applicants Raja @ Suhail Ahmed, Muzamil and Mudasir seek pre-arrest bail in Crime No.44/2026, registered at P.S. K.N. Shah, District Dadu, under Sections 452, 504, 34, 337-A(i), 337-L(ii) and 337-A(v) PPC. Learned Additional Sessions Judge-II, Mehar, declined their plea and recalled the interim bail by order dated 31.03.2026.

2. The complainant, Asadullah, lodged the FIR on 28.02.2026 in respect of an occurrence on 10.02.2026 at about 10:00 a.m. He states that some days earlier, the applicant, Raja, had complained that his son, Amjad Ali, kept an evil eye on Raja’s daughter and that harsh words were exchanged. On the day of the occurrence, Raja and Muzamil, armed with pistols, Mudasir with a danda, and an unidentified person with a gun entered his house. Raja struck Amjad Ali with a pistol butt on the left temporal region, and the others struck him with pistol butts, a danda, and a gun butt on the head, back, and body. The complainant and his other son, Jawad Ali, rescued him. No shot was fired. The injured was taken to Taluka Hospital K.N. Shah on a police letter and was referred to Larkana. The FIR was registered after the final medico-legal certificate had been collected.

3. The provisional certificate records two injuries on the injured: a laceration measuring 2.5 x 0.5 cm on the left occipital region and a contusion measuring 1.5 x 0.5 cm on the upper part of the nose. Both were kept reserved. The final certificate of 25.02.2026 declares the first as *shajjah-i-khafifah* and the second as other hurt, and by a special note adds that a CT scan of the brain at Larkana showed a right temporal contusion, which is declared *shajjah-i-ammah*. A Special Medical Board has since reported on 08.07.2026. It notes that the radiographs produced by the medical officer show no fracture, that the CT scan shows a right temporal contusion, that fresh radiographs of the skull taken by the Board show no fracture, and that it has termed the opinion of the first examiner correct.

4. Learned counsel for the applicants contends that the applicants have been falsely implicated on account of a dispute over exchange of harsh words; that the FIR was lodged after eighteen days, although the police had issued the treatment letter on the day of the occurrence; that three armed persons are said to have attacked the injured, yet no one fired, and the complainant and his other son were not touched; that the right temporal injury, on which the case of *shajjah-i-ammah* rests, is not mentioned in the FIR and is on the side opposite to the one attributed to Raja; that no skull fracture has been found even by the Board, and that Muzamil and Mudasir are attributed only general blows. He adds that the applicants have been attending the trial court, the charge has been framed, and there is no complaint of misuse of the concession.

5. Learned Deputy Prosecutor General and learned counsel for the complainant oppose the application. They submit that the applicants are nominated with specific roles, that the injured has been declared to have sustained *shajjah-i-ammah*, punishable under section 337-A(v) PPC with imprisonment up to ten years, which attracts the prohibitory clause of section 497 Cr.P.C and that no mala fide has been shown.

6. I have heard the learned counsel and, with their assistance, have perused the record. The observations below are tentative and are only for deciding this application.

7. The prohibitory clause applies here only under Section 337-A(v) PPC. The impugned order accepted the medical officer's declaration as it stood. That section defines *shajjah-i-ammah* as an injury causing a skull fracture such that the wound touches the membrane of the brain. The medical record placed before me shows, in the provisional certificate, a scalp laceration and a nasal contusion, and, on CT scan, a brain contusion. Both sets of radiographs, the one produced by the medical officer and the fresh one taken by the Board, show no fracture. The Board has called the first opinion correct but has not explained how a brain contusion without fracture fits the description in Section 337-A(v). Whether it does is a question that only the medical evidence at trial can settle. For the present, the applicability of the prohibitory clause is doubtful. Further, the FIR records a blow of Raja to the left side of the head, where the provisional certificate and the Board record a scalp wound declared *shajjah-i-khafifah*. The right temporal contusion is not attributed in the FIR to any particular accused.

8. The remaining offences, under sections 452, 504, 337-A(i) and 337-L(ii) PPC, fall outside the prohibitory clause. In such cases, bail is the rule and its refusal an exception, to be justified by circumstances such as the likelihood of absconding, tampering with the evidence, or repetition of the offence.¹ None of these circumstances is alleged here. The investigation is complete; the trial has begun, with the charge framed on 12.09.2026, and the applicants have been attending the trial court. Their custody is not required for any purpose.

9. Relief on the basis of pre-arrest bail requires the applicant to show mala fide on the part of the complainant or the police.² This is to be gathered from the circumstances of the case. The parties had an admitted grievance before the occurrence. The police were seized of the matter on 10.02.2026, as the treatment letter shows, yet the FIR was registered only on 28.02.2026, and the complainant states in it that he came after collecting the final medico-legal certificate. The prosecution has not explained this delay. The allegation is that three armed persons entered the house, but no shot was fired and neither the complainant nor Jawad Ali was touched.

¹ *Tariq Bashir v. The State* PLD 1995 SC 34.

² *Mukhtar Ahmad v. The State* 2016 SCMR 2064.

These circumstances prima facie lend support to the plea of ulterior motive, which has to be examined at trial.

10. As to Muzamil and Mudasir, the FIR does not attribute to either of them a specific blow or injury. They are covered by the words 'other accused', who are said to have inflicted blows with pistol butts, danda and gun butts. Their liability, if any, would be vicarious under section 34 PPC and will be decided at trial.

11. Taken together, the doubtful classification of the injury, the unexplained delay of eighteen day, and the general role assigned to two of the applicants bring the case within the scope of further inquiry under section 497(2) Cr.P.C.³ The applicants are therefore entitled to the concession of bail.

12. Accordingly, the interim pre-arrest bail earlier granted to the applicants Raja @ Suhail Ahmed, Muzamil and Mudasir by this Court is **confirmed** on the same terms and conditions.

13. The trial court shall decide the case on the evidence, without being influenced by anything said above. If any applicant misuses the concession of bail, the trial court shall be at liberty to cancel it after notice, without making a reference to this Court.

14. The bail application stands disposed of in the above terms.

JUDGE

Zulfiqar

³ *Salman Mushtaq v. The State* 2024 SCMR 14.