

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.261 of 2026

Applicants : Sikandar Ali (Sikandar Azam as per FIR) and Afaq Rasool (Afaq Ahmed as Per FIR) sons of Mahaydeen Keerano through Mr. Ahmed Hussain Jokhio, Advocate

Complainant : Talat Iqbal son of Muhammad Khan through Mr. Muhammad Yousuf Narejo, Advocate

Respondent : The State through Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh along with IO/SIP-Yar Muhammad Daris

Date of hearing : 06.08.2026

Date of decision : 06.08.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicants- Sikandar Ali (Sikandar Azam as per FIR) and Afaq Rasool (Afaq Ahmed as Per FIR) sons of Mahaydeen Keerano, seek pre-arrest bail in FIR No.123 of 2025, under Section 436, 34 PPC, registered at Police Station Darro, District Sujawal, calling in question the Order dated 02.12.2025, passed by the learned Additional Sessions Judge-I, Sujawal, whereby, their pre-arrest bail application was dismissed. The Applicants were granted ad-interim pre-arrest bail by this Court *vide* Order dated: 27.01.2026.

2. Brief facts of the prosecution case, as set out in the FIR, are that Complainant, namely, Talat Iqbal son of Muhammad Khan Kandhro, appeared at Police Station Darro, District Sujawal, and stated that he owns 16 acres of agricultural land situated in Deh Darro, which he himself cultivates. Adjacent to his land, are the houses and agricultural land of Mahiyuddin Keerano, with whom, the Complainant is on inimical terms over a land dispute. The Complainant had cultivated a rice crop on his land, which he had harvested and left there. On 02.11.2025, the Complainant, along with his Farmer, namely, Abdul Latif son of Sulleman, and his Cousin, namely, Sohail Ahmed son of Abdul Qadir Kandhro, was present at the land, where a thresher was in operation. At about 2100 hours, they noticed a fire in the harvested crop and immediately proceeded towards the spot. In the light of a torch, they allegedly saw two

persons, whom the Complainant identified as Sikander Azam and Afaq Ahmed, both by caste Keerano. Upon seeing the Complainant party approaching, the said persons allegedly fled towards their houses. The Complainant attempted to extinguish the fire; however, a substantial portion of the harvested crop was burnt, causing him a loss of approximately Rs.630,000/- to Rs.700,000/-. Consequently, the present FIR was lodged.

3. Learned Counsel for the Applicant argued that the Applicants are innocent and have falsely been implicated in this case by the Complainant in connivance with the police. He contended that the Applicants have committed no offence and there is a dispute of civil nature. He submitted that FIR was lodged with an inordinate delay of about four days without any plausible explanation, despite the Police Station being situated only about three kilometers from the place of occurrence, thereby creating serious doubt regarding deliberation and consultation. He further argued that there is no direct or indirect evidence connecting the Applicant with the commission of offence. He next contended that after investigation, the Investigating Officer found the case fit for disposal under "C" Class and submitted the report under Section 173 Cr.P.C. before the learned Magistrate, who, however, took cognizance on the negative report. He next submitted that Section 436 PPC has been wrongly invoked, as the allegation in the FIR relates to setting fire to harvested crops/ agricultural produce, which attracts Section 435 PPC, and the offence under the latter provision does not fall within the prohibitory clause of Section 497(1), Cr.P.C., particularly when, at the bail stage, the minimum sentence prescribed by law is to be taken into consideration; that the incorrect application of Section 436 PPC by the police appears to have been made mala fide with the object of bringing the case within the prohibitory clause of Section 497(1), Cr.P.C. He further contended that the occurrence itself was initially reported in the Newspaper as having been caused by unknown persons, whereas, owing to the admitted previous landed dispute, the Complainant subsequently implicated the Applicants, apparently with a view to converting a civil dispute into criminal litigation and settling scores through unlawful means. He emphasized that the Applicants are respectable and permanent residents of the locality, have no likelihood of absconding or tampering with the prosecution evidence, and their arrest would serve no useful purpose except causing humiliation and disgrace; and that the Applicants are ready and willing to furnish solvent surety to the satisfaction of this Court and that the Applicants have joined the investigation and have not misused the concession of interim protection; therefore, he prays that the pre-arrest bail may be confirmed.

4. Learned Assistant Prosecutor General, Sindh as well as Complainant's Counsel have vehemently opposed the bail, contending that the offence is duly reflected from the contents of the FIR and supporting material, and that the sufficient *prima facie* material is available to connect the Applicants with the commission of offence. They argued that the pre-arrest bail is an extraordinary relief which cannot be granted as a matter of course, particularly where the accused has allegedly misused earlier concessions, and therefore they pray that the present pre-arrest bail application may be dismissed.

5. I have heard the learned Counsel for the Applicants, learned Assistant Prosecutor General, Sindh, as well as Complainant's Counsel, and upon perusal of material available on record, it transpires that the allegation against the Applicants is that they were seen setting fire to the harvested rice crop of the Complainant. At the outset, it is noticeable that the parties are admittedly inimical towards each other on account of a pre-existing land dispute, which provides a background for false implication and, therefore, the allegation requires to be examined with due caution. The occurrence allegedly took place on 02.11.2025 at about 2100 hours, whereas the FIR was lodged after an unexplained delay of about four days, despite the Police Station being situated at a distance of only about three kilometers from the place of occurrence. Such delay, at this tentative stage, cannot be brushed aside, particularly when the Applicants were admittedly known to the Complainant and no plausible explanation has been furnished for their immediate non-nomination.

6. The ocular account, insofar as the identification of the Applicants is concerned, also requires further scrutiny. The Complainant claims that the Applicants were identified in the light of a torch at night and that, upon seeing the Complainant party approaching, they fled towards their houses. However, no independent or corroborative material has, at this stage, been brought on record to substantiate their alleged presence or participation in the occurrence. More importantly, the Investigating Officer, after conducting investigation, found the case fit for disposal under "C" Class and submitted the report under Section 173 Cr.P.C. before the learned Magistrate. Although the learned Magistrate did not accept the said report and took cognizance of the offence, the fact that the Investigating Officer himself did not find sufficient incriminating material against the Applicants is a circumstance, which cannot be altogether ignored while determining the question of pre-arrest bail.

7. Another important aspect of the matter is the legal character of the alleged offence. The allegation, as narrated in the FIR, pertains to setting fire to harvested agricultural crop. The learned Counsel for the Applicants has raised a specific objection that the ingredients of Section 436 PPC are not attracted to the facts alleged in the FIR and that, at best, the allegation may fall within the ambit of Section 435 PPC. Without expressing any final opinion on the applicability of the relevant penal provision, the objection so raised is not devoid of substance and requires determination after recording of evidence. This aspect assumes significance while considering the applicability of the prohibitory clause of Section 497(1), Cr.P.C. and, consequently, the necessity of arrest of the Applicants.

8. It is also relevant that the occurrence was initially reported in the newspaper as having been caused by unknown persons, whereas the Applicants were subsequently nominated in the FIR. Coupled with the admitted previous land dispute between the parties, the unexplained delay in lodging the FIR, the disputed identification at night, and the Investigating Officer's conclusion recommending "C" Class disposal, these circumstances, taken cumulatively, make the prosecution case liable to further inquiry and provide reasonable grounds to apprehend that the Applicants may have been nominated on account of previous enmity. At this stage, the Court is not required to conduct a deeper appreciation of the evidence or record a definitive finding regarding the guilt or innocence of the Applicants.

9. Keeping in view the settled principles of law governing pre-arrest bail, this Court is of the tentative view that the Applicants have made out a case for confirmation of pre-arrest bail. Consequently, the ad-interim pre-arrest bail granted to the Applicants *vide* Order dated 27.01.2026 in Crime No.123 of 2025, registered at Police Station Darro, District Sujawal, for offence under Section 436, 34 PPC, is hereby **confirmed**, subject to the same terms and conditions. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

JUDGE

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