HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-1129 of 2026

Applicants:	Shayat Ali @ Shayan, Sarfraz Ali @ Sarfraz and Wajid Latif @ Kazi Wajid through Mr. Saad Salman Ghani, Advocate.
Respondent:	The State through Mr. Shawak Rathore, Deputy Prosecutor General, Sindh along with ASI Najamuddin Khoso, PS Moya, District Tando Muhammad Khan.
Complainant:	Nemo.
Date of hearing:	30.10.2026.
Date of order:	30.10.2026.

O R D E R

MUHAMMAD HUMAYON KHAN, J: - Applicants Shayan Ali @ Shayan son of Shamsuddin, Sarfraz Ali @ Sarfraz son of Ghulam Qadir @ Ghulam Akbar, and Wajid Latif @ Kazi Wajid son of Abdul Latif @ Kazi Latif seek confirmation of interim pre-arrest bail granted on 24.08.2026 in Crime No.03 of 2026, Police Station Moya, District Tando Muhammad Khan, under sections 506 (ii), 504, 337-H (ii), 147, 148 and 149, P.P.C.; the police report also mentions sections 114, 337-A (i) and 337-F (i), P.P.C. Their earlier application was dismissed for non-prosecution on 24.04.2026 and the subsequent application was dismissed as not maintainable on 22.05.2026.

2. Briefly, on 14.12.2025 at about 3:00 p.m., eleven accused allegedly confronted the complainant party at a newly constructed village school. Shayan allegedly struck Abdul Wahid on the forehead with the blunt side of a hatchet, Sarfraz similarly struck his left-hand fingers, and Wajid participated in the collective assault; aerial firing and death threats were also alleged. The FIR was registered on 13.01.2026.

3. Learned counsel for the applicants contends that the prosecution is retaliatory, arising from existing hostility and proceedings initiated against the complainant party. He relies upon the month-long delay, the injury classifications recorded in the co-accused's order and confirmation of their bail on 31.01.2026. He maintains that the offences fall outside the prohibitory clause and that the material calls for further inquiry.

4. Learned D.P.G., Sindh opposes confirmation on the grounds of specific nomination and assigned roles, medical support for the assault, and the applicants' unexplained earlier default.

5. The question of default requires determination first. In AZAM SALEEM and another v. The STATE and others (PLD 2021 SC 894), a satisfactory explanation for non-appearance was held necessary before a subsequent pre-arrest bail application could be examined on merits. Learned counsel explained that on single date, the applicants could not appear before the Court below due to the reasons they had to appear before the Court of learned 1st Additional Sessions Judge, Tando Muhammad Khan in Criminal Bail Application No.247/2026 but due to fixation of two separate bail applications, the applicants could mark their attendance when the same were called. The explanation furnished by the learned counsel is satisfactorily.

6. The occurrence preceded registration by thirty days. The FIR refers to medical treatment and proceedings for registration; the delay is therefore not wholly unexplained, but its length, viewed with the existing dispute, calls for scrutiny at trial. The order dated 31.01.2026 records that the final medical certificate classified the injuries as *Shajjah-i-Khafifah* and *Ghayr-Jaifah Damiyah* under sections 337-A (i) and 337-F (i), P.P.C. The medical material supports injury, but does not by itself settle the identity or participation of each assailant. Shayan and Sarfraz have specific injury roles; they cannot claim parity merely with co-accused assigned general participation. Nevertheless, Abdul Latif, attributed a lathi blow, and Shamsuddin, attributed aerial firing and intimidation, were amongst those admitted to confirmed bail on 31.01.2026. That order is a relevant consideration, particularly for Wajid, against whom no separately identified injury is specified. The limited injury classifications, delayed registration and acknowledged hostility, considered together, furnish a tentative basis for apprehending retaliatory implication and arrest for humiliation; the seriousness of the allegations alone does not answer these circumstances.

7. In SALMAN MUSHTAQ and others v. The STATE through P.G. Punjab and another (2024 SCMR 14), the Supreme Court recognized that bail should not be withheld as punishment where tentative scrutiny discloses further inquiry, while requiring consideration of ulterior motive and risks to the administration of justice. The offences here do not attract

the prohibitory limb of section 497 (1), Cr.P.C. These considerations support confirmation, provided the default is satisfactorily explained and the hearing record discloses no subsequent misuse or outstanding investigative requirement justifying custody.

8. For the foregoing reasons, this application is **allowed** and the interim pre-arrest bail granted on 24.08.2026 is **confirmed** on the same terms and conditions. The applicants shall join investigation/attend the trial Court, as the case may be. These observations are tentative and shall not influence the trial.

JUDGE

Abdullah Channa/PS*