

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1261 of 2025

Applicant : Syed Farhat Akhtar son of Syed Kamal Uddin through M/s. Allah Ditta Shakir and Shamshad Qureshi, Advocates

Criminal Bail Application No.1285 of 2025

Applicant : Syed Fahad Tanveer son of Syed Tanveer Akhtar through Mr. Abdul Wahid, Advocate

Complainant : Syed Aijaz Akhtar son of Syed Kamal Uddin through Mr. M. Umair Mughal, Advocate

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

Date of Hearing : 07.11.2025

Date of Decision : 07.11.2025

ORDER

Jan Ali Junejo, J.- Through this common order, I intend to decide Criminal Bail Application No.1261 of 2025, filed by Syed Farhat Akhtar, and Criminal Bail Application No.1285 of 2025, filed by Syed Fahad Tanveer. Both applications arise out of FIR No.82/2025 registered at P.S. Saudabad, District Korangi, Karachi, for offences under Sections 448, 506(2), 427, and 34 PPC. The Applicants were granted ad-interim pre-arrest bail vide orders dated 16.05.2025 (CBA-1261/2025) and 19.05.2025 (CBA-1285/2025), which are now fixed for confirmation or otherwise.

2. The FIR was registered on 30.03.2025 on the directions of the learned Justice of Peace in terms of Sections 22-A & 22-B Cr.P.C., regarding an occurrence allegedly taking place on 18.03.2025. The complainant Syed Aijaz Akhtar, who is the real brother/uncle of the Applicants, asserts that the subject premises i.e., House No. D-4/91-92, Saudabad, Malir Colony, Karachi, is an inherited property; that a portion was in his possession; that the Applicants after breaking the locks allegedly entered his portion, demolished the staircase leading to his

portion thereby obstructing ingress/egress; and that Applicant Syed Fahad Tanveer allegedly issued threats while displaying a weapon. It is further alleged the household/electronic articles and car remained within the premises and the complainant shifted to Model Colony due to alleged threats.

3. Both the learned counsel for the Applicants contend that the dispute originates from admitted civil litigation relating to inheritance, title, possession, and partition of the same property, which is already sub judice before competent Civil Courts, and that the criminal proceedings have been initiated merely as a pressure tactic. They argue that there is an unexplained delay of about 12 days in lodging the FIR, and though registration was ultimately directed by the Court, the delay and surrounding circumstances render the allegations fit for further inquiry. They submit that the alleged offences are either bailable (Sections 448 and 427 read with Section 34, P.P.C.) or non-prohibitory (Section 506-B, P.P.C.), where the rule is grant of bail and refusal an exception. He argues that no incriminating recovery was effected; no broken locks or weapons were seized; no independent or disinterested witnesses corroborate the alleged threats or trespass; and the question of possession itself is disputed, undermining the very foundation of criminal trespass. They maintain that the Applicants remained available during investigation, complied with all conditions of interim bail, and no misuse has been alleged. They contend that mala fide is prima facie evident from the complainant's repeated recourse to criminal proceedings during ongoing civil litigation and alleged attempts to use the police to secure possession. They, therefore, pray for confirmation of bail.

4. Learned counsel for the Complainant argues that the FIR contains specific and detailed allegations regarding breaking of locks, demolition of stairs, issuance of threats, and obstruction of access. He contends that statements recorded under Section 161, Cr.P.C., from neighbours and other witnesses lend prima facie support to the complainant's version and sufficiently substantiate the allegations. He maintains that the acts complained of demonstrate clear criminal intent and cannot be brushed aside as a mere civil dispute, nor is any mala fide apparent. He, therefore, prays for dismissal of the bail applications.

5. Learned Additional Prosecutor General argues that the allegations of trespass, mischief, and criminal intimidation stand prima facie supported by the FIR and witnesses' statements, and that the Applicants' conduct in allegedly demolishing structures and creating obstruction

indicates *mens rea*. She contends that the ongoing civil litigation does not, by itself, absolve criminal liability where specific overt acts are attributed. She submits that no grounds for further inquiry or mala fide are made out from the record. She, therefore, prays for dismissal of bail.

6. Pre-arrest bail is an extraordinary relief to be granted sparingly to prevent abuse of process of law, humiliation or unjustified arrest, where mala fide, ulterior motive, or a design to disgrace is shown, or where the case calls for further inquiry within the contemplation of Section 497(2) Cr.P.C. Where the alleged offences do not fall within the prohibitory clause of Section 497(1) Cr.P.C., the rule is grant of bail and refusal an exception, absent exceptional circumstances such as likelihood of absconding, tampering with evidence, or misusing concession. Where disputes over title/possession in immovable property are manifestly civil and sub judice, criminal proceedings should not be permitted to convert civil controversy into criminal culpability; allegations of criminal trespass require clear proof of possession and intention, which, when disputed, often fall within further inquiry at bail stage.

7. I have considered the arguments advanced by the learned counsel for the Applicant, the learned counsel for the Complainant, and the learned A.P.G. for the State, and have examined the material available on record with the tentative assessment permissible at the bail stage. It is not disputed that civil litigation pertaining to the same inherited property is pending between closely related parties. The competing claims regarding inheritance, title, and possession materially affect the foundational ingredients of 'criminal trespass' under Section 441, P.P.C., and 'mischief' under Section 425, P.P.C., thereby casting doubt on the requisite *mens rea*. As regards the allegation under Section 506(2), P.P.C., a plain reading of Section 503, P.P.C. reflects that mere issuance of threats, without compelling a person to do an act they are not legally bound to do or to omit an act they are legally bound to perform, does not constitute criminal intimidation. In the present matter, no such element of compulsion is prima facie demonstrated; hence, the applicability of Section 506(ii), P.P.C., appears doubtful and remains a matter to be determined at trial. These circumstances, when viewed collectively, bring the case within the ambit of further inquiry at this stage of the proceedings. In similar circumstances, in the case of **Wajid Ali v. Civil Judge & Judicial Magistrate No. 1 and others (PLD 2014 Sindh 164)**, a Division Bench of this Court while examining the ingredients of the offence under Section 506(2), P.P.C. in the context of Section 503, P.P.C., was pleased to observe in paragraph 17 of the judgment as follows:

“The bare perusal of the above makes it elucidate that simple threats are not sufficient to constitute a criminal intimidation within the scope of this section unless it is caused that person to do an act who was not legally bound to do or to omit to do any act which that person was legally bound to do. Thus section 506(ii), P.P.C. applied in the matter, also not applicable”.

8. The alleged occurrence is dated 18.03.2025 whereas the FIR was registered on 30.03.2025 upon court direction. Even when the delay is explained with reference to 22-A/22-B proceedings, the overall timeline in a family property dispute weakens spontaneity and warrants caution, tilting the case towards further inquiry. Despite assertion of breaking locks, demolishing stairs, and display of weapon, there is no recovery of the alleged broken locks, no seizure memo of any weapon, and no neutral, independent corroboration. Section 161 Cr.P.C. statements of relatives/neighbours, in the milieu of an admitted civil feud, require strict scrutiny at trial; at bail stage, they cannot per se displace the presumption favoring liberty in non-prohibitory offences. Material placed suggests prior criminal complaints inter se, recourse to police during pendency of civil suits, and mutual allegations of interference with possession. The cumulative circumstances prima facie reflect an attempt to settle civil scores through criminal process, at least sufficient to attract the protective jurisdiction for pre-arrest bail to prevent humiliation and unjustified arrest. The Applicants have remained compliant with the ad-interim orders, joined investigation, and no complaint of misuse, non-cooperation, or intimidation of witnesses is brought on record by the prosecution. Sections 448, 427, read with 34 PPC are bailable. Section 506(2) PPC, though non-bailable, does not fall within the prohibitory clause of Section 497(1) Cr.P.C. In such a situation, absent exceptional factors (which are not shown), the rule is grant of bail.

9. In view of the admitted civil dispute, disputed possession, unexplained delay in registration of the F.I.R., lack of recovery/neutral corroboration, and the tenor of allegations among close family members, the case squarely falls within the ambit of “further inquiry” under Section 497(2) Cr.P.C., meriting confirmation of pre-arrest bail. In similar circumstances, in the case of ***Rana Muhammad Imran Nasrullah v. The State and others (2022 SCMR 1946)***, the Honourable Supreme Court of Pakistan was pleased to confirm the bail of the accused by observing that: “A bare perusal of the afore-quoted provision of law makes it clear that whenever an overt act is materialized and ended into an overt act, the provision of section 506(ii), P.P.C. would not be applicable and the only

provision which will remain in the field is the overt act, which is committed in consequence of criminal intimidation. In the present case, the provision of sections 337-H(2)/148/149, P.P.C. have been alleged against the petitioner, which is bailable in nature. As far as section 440, P.P.C. is concerned, the same was added at a belated stage and the application of the same would be resolved by the Trial Court after recording of evidence. It is now established that while granting pre-arrest bail, the merits of the case can be touched upon by the Court. Reliance is placed on *Miran Bux v. The State* (PLD 1989 SC 347) and *Sajid Hussain alias Joji v. The State* (PLD 2021 SC 898). Taking into consideration all the facts and circumstances stated above, we are of the view that the case of the petitioner squarely falls within the ambit of section 497(2), Cr.P.C. entitling for further inquiry into his guilt". Emphasis is supplied.

10. For the foregoing reasons, and keeping in view the principles enunciated by the Hon'ble Supreme Court regarding:

- the grant of bail where offences do not fall within the prohibitory clause,
- the protection against abuse of criminal process in matters essentially civil in nature, and
- the requirement of further inquiry under Section 497(2) Cr.P.C.,

Both Criminal Bail Applications No.1261 of 2025 (Syed Farhat Akhtar) and No.1285 of 2025 (Syed Fahad Tanveer) are allowed. Consequently, the ad-interim pre-arrest bail already granted to the Applicants in FIR No.82/2025, P.S. Saudabad, District Korangi, Karachi, for offences under Sections 448, 506(2), 427, 34 PPC, is hereby confirmed on the same terms and conditions. The Applicants shall attend the trial Court punctually on each and every date unless exempted in accordance with law, not misuse the concession of bail. The observations made herein are tentative in nature, restricted to the adjudication of this bail application, and shall not prejudice the case of either party during the trial. These are the detailed reasons of the Short Order dated: 07-11-2025.

JUDGE