

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-772 of 2025

Applicants : 1. Mushtaque Ahmed s/o Ali Murad  
2. Afsar Ali @ Dodo s/o Mir Khan, Phulpoto  
3. Zohaib @ Siraj s/o Sikander, Siming  
4. Abdul Malik s/o Muhstaque Ahmed, Phulpoto  
Through Mr. Aftab Hussain Shar, Advocate

Complainant : Sa'ad Sharif s/o Muhammad Sharif, Siming  
Through Mr. Ghulam Murtaza Burirro, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of Hearing : 06.11.2025  
Date of Order : 06.11.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.—** Applicants above named seek confirmation or otherwise of instant pre-arrest bail in a case bearing Crime No.230/2025, for offences under Sections 427, 511, 337-F(ii), 114, 337-A(i), 147, 148, 149, and 337-F(v) PPC, registered at Police Station B-Section Khairpur, arising out of FIR registered.

2. The prosecution story, as set forth in the FIR, is that on 16.06.2025, complainant Sa'ad Shareef, along with his employees, was present at his land in Village Wada Siming when the above-named applicants allegedly attempted forcible occupation by installing a hand pump. Upon resistance, applicants, armed with rods and *lathies*, caused injuries to Abdul Majid, Anwar, and Shaman Ali. The accused then fled the scene. The FIR was lodged after a lapse of four days, attributing the delay to the complainant's engagement in medical treatment of the injured.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to a longstanding property dispute, which is mentioned in the FIR itself. It was argued that there is unexplained and substantial delay in lodging the FIR, raising serious doubts about the prosecution story. The counsel emphasized that all offences except section 337-F(v) PPC are

bailable, and even section 337-F(v) does not fall within the prohibitory clause of section 497 Cr.P.C. The applicants are said to be lawful owners of the property, as evidenced by a "Khatta" (ownership certificate), and have lodged a counter FIR. It was further submitted that all prosecution witnesses are interested witnesses/employees of the complainant, and that the medico-legal evidence does not conclusively prove the prosecution case. Learned counsel relied upon (2022 P.Cr.L.J Note 66) and (2024 SCMR 1605), submitting that delay in lodging FIR, ownership dispute, existence of cross-version, and non-prohibitory nature of the offence call for the concession of bail.

4. Learned Deputy Prosecutor General for the State, assisted by counsel for the complainant, opposed the bail application, contending that the applicants are specifically named with assigned roles in the commission of offence and the ocular account is amply substantiated by medico-legal evidence. It was further argued that the delay in lodging FIR is explained by the need to secure timely medical treatment for multiple injured persons. They submitted that mala fide or ulterior motives are not discernible on the record, and that bail cannot be granted when specific allegations are supported by medical evidence; reliance was placed on (2020 SCMR 937).

5. The court has considered the submissions and carefully examined the record. The admitted property dispute between the parties, as reflected in the FIR and documentary evidence of ownership produced by the applicants, indicates a background of civil litigation that often engenders criminal litigation by way of false implication. The existence of cross-version FIR arising from the same incident further makes it a case of counter-allegations. In such circumstances, the Supreme Court in *Khizar Hayat v. The State & others* (2024 SCMR 1605) held that bail is to be granted as a matter of rule in cross-version cases since the question of aggressor and truthfulness of rival versions can only be determined at the trial. Similarly, this Court in case of *Wali Muhammad @ Hajjan & others v. The Stae* (2022 P.Cr.L.J

Note 66) granted bail where there was inordinate and unexplained delay in lodgment of FIR amid property dispute, holding that most of such offences are bailable and, even where section 337-F(v) is involved, the offence does not fall within the prohibitory clause of section 497 Cr.P.C.

6. Though the prosecution asserts that the delay was justified due to medical treatment, the record reflects that the medical certificates were promptly obtained and the victims discharged prior to lodging of FIR. No robust explanation has been provided for the four days' silence as to criminal proceedings. Moreover, the witnesses cited are all related to or employees of the complainant, and presence of independent witnesses is wanting despite the allegation that the incident occurred in broad daylight in a populated area. In cases of cross-versions, with documentary evidence of the accused's title and the slow reporting of the matter to police, further inquiry is immediately attracted under section 497(2) Cr.P.C.

7. Given the above and that the injury attracting section 337-F(v) PPC, though non-bailable, carries a maximum punishment of five years and does not fall within the prohibitory clause, the case calls for the exercise of discretion in favour of the accused. There is no material on record to indicate mala fide on the part of the applicants, who have joined investigation and appeared before the trial court.

8. For these reasons, the applicants have made out a case for confirmation of interim pre-arrest bail. Interim bail earlier granted is confirmed on the same terms and conditions, with directions to join investigation/trial. Observations herein are tentative and will not prejudice the trial's merits.

**J U D G E**