

**IN THE HIGH COURT OF SINDH CIRCUIT COURT  
AT HYDERABAD**

**Criminal Bail Application No.S-902 of 2025**

Applicants : Jan Muhammad @ Janu Bacho son of  
Sain Dino and Shayan Ali @ Shani  
Memon son of Inayat Ali Memon  
through M/s. Sameeullah Rind and  
Abdul Rauf Memon, Advocates

Complainant : Mst. Nazeeran wife of Muhammad Bux  
Mallah through Mr. Shuhabuddin  
Shah, Advocate

The State : Through Ms. Sana Memon, Assistant  
Prosecutor General, Sindh

Date of hearing : 07.10.2025

Date of Order : 07.10.2025

**ORDER**

**Jan Ali Junejo, J.-** Through the instant Criminal Bail Application filed under Section 498, Cr.P.C., the Applicants/accused seek the concession of pre-arrest bail from this Court. Earlier, this Court was pleased to grant interim pre-arrest bail to the Applicants vide order dated 15.08.2025 in Crime No.170 of 2025, registered at Police Station Hala New for offences punishable under Sections 452, 427, 506(2), 504, 337-A(i), 337-F(i), 114, 147, 148, and 149, PPC. It may be noted that the Applicants' previous bail application bearing Criminal Bail Application No.560 of 2025 was dismissed by the learned Additional Sessions Judge, Hala, vide order dated 08.08.2025.

2. As per contents of the FIR lodged by the complainant, on 22.07.2025 at about 2330 hours, ten accused persons allegedly armed with pistols, hatchets, and sticks entered the complainant's house and allegedly caused damage to household articles, abused, and issued threats of dire consequences. It is further alleged that the accused persons assaulted the complainant and her family members, causing injuries. After committing the offence, they allegedly left the scene while extending threats of murder.

3. The learned counsel for the Applicant argues that the applicants are innocent and have been falsely implicated in this case due to previous enmity between the parties, arising out of a dispute over a wire cut and an

earlier incident dated 10.07.2025, in which the complainant's sons were themselves nominated as accused in another FIR lodged by co-applicant Shayan @ Shani Memon. He submits that the FIR itself acknowledges the existence of prior enmity, which casts serious doubt on the veracity of the allegations. The allegations, he maintains, are general in nature and do not assign any specific role to the present applicants. No injury is attributed to either of them, and the site memo is silent regarding the recovery of any broken articles or stones allegedly used in the occurrence. He emphasizes that the offences alleged under Sections 452, 427, 506(2), 504, and 114 PPC do not fall within the prohibitory clause of Section 497 Cr.P.C. He further contends that the co-accused in the same crime have already been granted bail by the learned Judicial Magistrate-II, Hala, vide order dated 30.07.2025, and thus, the principle of consistency also supports the applicants' plea. He further submits that the mala fide intention of the complainant is evident from the record, as the FIR appears to have been lodged only to suppress and counter the previous complaint made by the applicants. On these grounds, he prays that the applicants may be granted the concession of bail.

4. Conversely, the learned counsel for the complainant argues that the applicants are specifically named in the FIR with clear and active roles attributed to each of them. He submits that the applicants, while armed with pistols, along with their accomplices, trespassed into the complainant's house at night, thereby committing a grave and serious offence falling within the mischief of Section 452 PPC. It is argued that the alleged act was premeditated and carried out in a threatening manner, creating terror and insecurity within the complainant's household. The learned counsel maintains that the allegations are not vague or general, rather, they contain specific overt acts, and the complainant's version is fully supported by statements of eyewitnesses recorded under Section 161 Cr.P.C. Lastly, the learned counsel prayed for dismissal of bail application.

5. The learned Assistant Prosecutor General, Ms. Sana Memon, adopts the arguments advanced by the complainant's counsel and further contends that sufficient material is available on record to connect the applicants with the commission of the offence. She submits that the nature of the offence, the manner in which it was committed, and the active participation of the applicants disentitle them to the concession of pre-arrest bail, which is an extraordinary relief meant to be granted only in exceptional circumstances. She asserts that no mala fide or ulterior motive has been demonstrated by the applicants, and as the case involves house

trespass at night by armed men, it falls within the prohibitory clause of Section 497 Cr.P.C. Hence, she prays for dismissal of the present bail application.

6. I have carefully considered the submissions of the learned counsel for the parties and examined the available record with due circumspection, as permissible at the bail stage, and with their able assistance. From a tentative assessment of the FIR and other material placed on record, it appears that there is admitted enmity between the parties arising from a prior dispute, which the complainant himself acknowledges in the FIR. Such admitted hostility between the parties casts serious doubt upon the veracity of the allegations and necessitates cautious scrutiny at this stage. The allegations levelled against the present applicants are general and omnibus in nature, without any specific or individualized role attributed to either of them. Although the applicants are alleged to have been armed with pistols, no firearm was either used or recovered during the investigation, thereby weakening the prosecution's claim of criminal intent or preparation for violence. Moreover, the medical letter produced by the police does not record injuries to certain alleged victims, which creates a legitimate doubt regarding the occurrence and the manner in which the incident is narrated in the FIR. It is also noteworthy that the co-accused in the same case have already been granted bail by the competent Court. While the offences alleged are non-bailable, they do not fall within the prohibitory clause of Section 497 Cr.P.C. The settled principle, as laid down by the Honourable Supreme Court in **Tariq Bashir and 5 others v. The State (PLD 1995 SC 34)** and **Muhammad Tanveer v. The State (PLD 2017 SC 733)**, is that in cases not falling within the prohibitory clause, grant of bail is the rule and refusal an exception, unless extraordinary circumstances exist. No such exceptional circumstances have been demonstrated in the present case. The applicants have already joined the investigation and there is no material to suggest that they are likely to abscond, influence witnesses, or tamper with the prosecution evidence. The record also reflects an element of mala fide and ulterior motive on the part of the complainant, stemming from prior enmity, which satisfies one of the essential preconditions for grant of pre-arrest bail under Section 498 Cr.P.C., as recognized by the superior Courts. It is well settled that pre-arrest bail, though an extraordinary remedy, may be confirmed when the Court is satisfied that the intended arrest is actuated by mala fide motives and the applicants are not likely to misuse the concession. It must be borne in mind that bail cannot be withheld as a form of punishment, and any error in extending such relief can be rectified at the conclusion of trial, should guilt be established through evidence.

7. In view of the foregoing discussion, the applicants have made out a case for confirmation of pre-arrest bail on the grounds of mala fide, general allegations, absence of specific role, and non-prohibitory nature of the offences. Accordingly, the interim pre-arrest bail earlier granted to the applicants vide order dated 15.08.2025 is hereby confirmed on the same terms and conditions.

8. It is, however, clarified that the observations made herein are tentative in nature, confined to the disposal of the instant applications, and shall not prejudice the case of either party during trial, which shall be decided strictly on its own merits. These are the reasons of the Short Order dated: 07-10-2025.

**JUDGE**