

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 922 of 2025

[Shoaib Malik and another v. The State]

Date of hearing : **07.08.2026**

Date of decision : **07.08.2026**

Mr. Jawad Hussain Rajper, Advocate for applicants (*present on interim pre-arrest bail*).

Mr. Nusrat Hussain Memon, Advocate for injured witness Sabir.

Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

ORDER

ARBAB ALI HAKRO, J. – Through the instant criminal bail application, the applicants / accused Shoaib son of Aijaz Malik and Waseem son of Abdul Raheem Malik, seek the concession of pre-arrest bail in Crime No. 61 of 2025, registered at Police Station Padidan, District Naushahro Feroze, for offences punishable under Sections 506-II, 337-A(i), 337-F(i) and 504, P.P.C. Their earlier application for pre-arrest bail was declined by the learned Additional Sessions Judge-III, Naushahro Feroze, vide order dated 04.09.2025. Thereafter, the applicants approached this Court and were admitted to interim pre-arrest bail vide order dated 29.09.2025.

2. Learned counsel for the applicants contended that they have been falsely implicated due to an admitted land dispute between the parties. In support of this contention, he referred to F.C. Suit No. 58 of 2024, in which Abdul Raheem, father of applicant Waseem, is the plaintiff, while Pehlwan (the complainant) and Taj Muhammad (the injured) are arrayed as defendants. According to the learned counsel, this prior litigation provides sufficient background for the plea of *mala fide* and false implication. He further submitted that the alleged occurrence took place on 20.05.2025 at about 6:00 p.m., whereas the F.I.R. was registered on 21.05.2025 at about 5:00 p.m., thereby giving rise to an element of deliberation and consultation. Learned counsel also relied on the fact that certain co-accused

persons have already been granted bail. In support of his submissions, he relied upon the cases of Nadir alias Nadir Ali v. The State (2018 P.Cr.L.J. Note 225), Muhammad Akhtar v. The State and others (2025 SCMR 1631), Muhammad Essa v. The State and another (2012 SCMR 646) and Jehan Sher v. The State and 9 others (2025 MLD 1744), and argued that, in view of the facts and circumstances of the present case, the applicants are also entitled to the extraordinary relief of pre-arrest bail.

3. Learned counsel for the injured witness Sabir has opposed the bail application to the extent of applicant Shoaib, contending that Shoaib is specifically nominated in the FIR with the allegation of causing a lathi blow to Sabir and that the final medical certificate supports this attribution.

4. Learned Deputy Prosecutor General has opposed the application on the ground that both applicants were directly nominated and specific roles were attributed to them. He submits that applicant Shoaib inflicted a lathi blow on Sabir, whereas applicant Waseem inflicted a hatchet blow on Taj Muhammad, and that the medical evidence corroborates these allegations. He has relied on the cases of *Riaz Ahmad v. The State* (2009 SCMR 725) and *Muhammad Aslam and another v. The State* (2007 SCMR 1412), contending that pre-arrest bail is an extraordinary relief and cannot be extended where a specific active role is attributed and *mala fide* is not established.

5. I have heard learned counsel for the parties and examined the available record.

6. The prosecution case is that on 20.05.2025 the accused persons allegedly entered the house of the complainant party, where applicant Shoaib is alleged to have caused a lathi blow to Sabir, while applicant Waseem is alleged to have caused a hatchet blow to Taj Muhammad. During the pendency of the bail application, this Court noticed an ambiguity in the medico-legal certificate relating to the injured Sabir and

summoned the concerned Medico-Legal Officer, Dr. Baqir Hussain Lashari, Rural Health Centre, Padidan. On 14.04.2026, the M.L.O. appeared and explained the discrepancy between the earlier and subsequent medical certificates. He stated that, after obtaining a further radiological opinion from Hyderabad, the final medico-legal certificate dated 09.06.2025 was issued and that the earlier certificate was not to be relied upon. His statement was recorded, and the show-cause proceedings were accordingly withdrawn.

7. The final medico-legal material, thus clarified, is significant for assessing the two applicants separately. In respect of injured Taj Muhammad, to whom applicant Waseem is alleged to have caused a hatchet blow, the injuries are classified as *Shajjah-i-Mudihah* and *Shajjah-i-Khafifah*. *Shajjah-i-Mudihah*, falling under Section 337-A(ii) PPC and *Shajjah-i-Khafifah*, falling under Section 337-A(i) PPC, do not attract punishment within the prohibitory clause of Section 497 Cr.P.C.

8. In respect of injured Sabir, to whom applicant Shoaib is specifically alleged to have caused a lathi blow, the final medico-legal certificate records *Shajjah-i-Khafifah*, *Shajjah-i-Hashimah* and *Shajjah-i-Munaqqilah*. The latter two injuries fall under Sections 337-A(iii) and 337-A(iv) PPC, respectively and carry punishment which may extend to ten years as *ta'zir*. Consequently, the case, to the extent of such injuries, falls within the prohibitory clause of Section 497 Cr.P.C.

9. The previous property litigation also warrants notice, particularly in relation to applicant Waseem. F.C. Suit No.58 of 2024 was instituted, *inter alia*, by Abdul Raheem, father of applicant Waseem, whereas the complainant Pehlwan and injured Taj Muhammad are arrayed as defendants therein. The plaint itself refers to the existing property dispute and an apprehension of false criminal cases. Though pendency of civil litigation, by itself, cannot establish *mala fide*, the said circumstance, coupled with the interval of approximately one day between the

registration of the FIR and the nature of the injuries attributed to Waseem, provides some support to his plea that his implication requires further inquiry.

10. In *Muhammad Essa v. The State and another* (2012 SCMR 646), the Supreme Court considered the unexplained delay in registering the FIR and the fact that the alleged offences did not fall within the prohibitory clause when granting pre-arrest bail. Likewise, *Muhammad Akhtar v. The State and others* (2025 SCMR 1631) recognizes the relevance, at the bail stage, of the prescribed punishment and the surrounding circumstances indicating that the case requires further inquiry.

11. Thus, as regards applicant Waseem, the specific role attributed to him relates to injuries that do not fall within the prohibitory clause; the admitted previous property litigation, particularly between his father and members of the complainant party, furnishes relevant background to his plea of *mala fide*, and there is also an interval of approximately one day between the occurrence and the registration of the FIR. These circumstances, considered cumulatively, bring his case within the ambit of further inquiry under Section 497(2) Cr.P.C. The fact that some co-accused have been granted bail also lends support, though the principle of consistency is not by itself decisive.

12. The case of applicant Shoaib, however, stands on a different footing. He is specifically nominated with an active role of causing a lathi blow that injured Sabir Hussain and the final medico-legal certificate, after clarification by the M.L.O. before this Court records *Shajjah-i-Hashimah* and *Shajjah-i-Munaqqilah* amongst the injuries suffered by Sabir. The medical evidence, therefore, materially corroborates the specific allegation against him and brings the relevant injuries within the prohibitory clause.

13. The authorities relied upon by learned D.P.G i.e. **Riaz Ahmad** (supra) and **Muhammad Aslam** (supra), are relevant to the extent that

where an accused is directly nominated for a specific and active role, supported by medical material and *mala fide* is not established, the extraordinary concession of pre-arrest bail is not ordinarily warranted. In the present case, the previous civil dispute does not, at this tentative stage, establish such *mala fide* in respect of applicant Shoaib as would outweigh the specific ocular and medical material available against him.

14. Consequently, applicant Waseem has made out a case requiring further inquiry, whereas applicant Shoaib has failed to establish grounds for extending to him the extraordinary concession of pre-arrest bail.

15. Accordingly, this criminal bail application is **allowed** to the extent of applicant No. 2, Waseem, son of Abdul Raheem Malik. The interim pre-arrest bail granted to him vide order dated 29.09.2025 is hereby **confirmed** on the same terms and conditions. However, the application to the extent of applicant No.1, Shoaib son of Aijaz Malik, is **dismissed** and the interim pre-arrest bail granted to him vide order dated 29.09.2025 is hereby **recalled**.

16. The observations made herein are tentative and confined to the determination of the present bail application and shall not prejudice either party or influence the learned trial Court while deciding the case on merits.

The above are the reasons for the short order dated 07.08.2026.

J U D G E

Abdul Basit