

**ORDER SHEET**  
 IN THE HIGH COURT OF SINDH BENCH AT SUKKUR  
**Crl. Bail Application No. S-1080 of 2025**  
 (Naveed Ali Mallah Vs The State)

<b>DATE OF HEARING</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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1. For Orders on office objection.
2. For hearing of bail application.

**Date of hearing and order: 24-06-2026.**

Mr. Sikandar Saddar Siddiqui advocate for the applicant.  
 Mr. Saifullah Leghari advocate for the complainant.  
 Mr. Mansoor Ahmed Shaikh, Deputy P.G for the State along with  
 SIP Abdul Karim.

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**ORDER**

**Adnan-ul-Karim Memon J:-** Applicant named above is present on interim pre-arrest bail vide order dated 07-11-2025, in Crime No. 51/2025, offence u/s 337A(iii), 337A(i), 337F(i), 147, 148, 149, 114 PPC registered at Police Station Bozdar Wada, District Khairpur, and now seeks confirmation of his bail.

2. Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated due to longstanding enmity between the parties over a street and plot dispute, which is admitted in the FIR itself. He argued that the complainant, being a habitual litigant, has repeatedly initiated litigation against the applicant's party and has maliciously involved the applicant in the present case. It was further contended that the FIR was lodged with an unexplained delay of more than twenty days, rendering the prosecution's story doubtful and making the case one of further inquiry. Learned counsel maintained that the allegations are false, the prosecution witnesses are closely related to the complainant, and there is no likelihood of the applicant tampering with the evidence. In support of his contentions, he relied upon the case of *Muzamil Hussain Vs the State*, **2026 SCMR 917**. He lastly submitted that the applicant apprehends his arrest at the hands of the police on account of mala fide and prayed for confirmation of pre-arrest bail already granted by this court vide order dated 7.11.2025.

3. Learned counsel for the complainant submitted that there is a longstanding enmity between the parties over a street and plot

dispute, in respect of which litigation is already pending. He argued that despite extending threats to withdraw the pending case, the accused, armed with deadly weapons and acting in furtherance of their common object, intercepted the complainant and his companions while they were returning home after purchasing groceries. It was contended that the applicant, along with the co-accused, actively participated in the assault, causing multiple injuries to the complainant, who was initially taken to the Taluka Hospital on the very day i.e. 09.07.2025 and thereafter referred to Civil Hospital, Khairpur vide police letter dated 464/9.7.2025 and after receiving the medical certificate dated 15.7.2025, police registered the subject F.I.R. No. 51/2025, offence u/s 337A(iii), 337A(i), 337F(i), 147, 148, 149, 114 PPC on 1.8.2025. Learned counsel further submitted that in the present case, the applicant has not produced any material demonstrating that the complainant or the investigating agency acted with mala fide or intended to misuse the process of law. He added that, on the contrary, the applicant is specifically nominated in the FIR with a distinct role, which is prima facie supported by the statements of the prosecution witnesses and the medical evidence. Therefore, in the absence of exceptional circumstances warranting the exercise of extraordinary jurisdiction under Section 498 Cr.P.C., the applicant is not entitled to the concession of pre-arrest bail. He lastly submitted that the accused fled the scene while extending threats of murder and prayed for dismissal of the pre-arrest bail application.

4. learned APG supported the stance of the counsel for the complainant and argued that the prosecution material corroborated the role attributed to applicant Naveed Ali and that the injury sustained by the complainant constituted *Shajjah-e-Hashimah* under Section 337-A(iii) PPC, an offence falling within the prohibitory clause. He argued that as no mala fide on the part of the complainant was established, the interim pre-arrest bail granted to Naveed Ali needs to be recalled, and his application is liable to be dismissed.

5. I have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. It is by now a settled proposition of law that the concession of pre-arrest bail under Section 498 Cr.P.C. is an extraordinary and exceptional relief. It is not meant to shield an accused from a lawful arrest or to substitute post-arrest bail. Still, it is intended only to protect an innocent person from abuse of the process of law where his arrest is actuated by mala fide, ulterior motive, or for purposes of humiliation and harassment. The burden lies squarely upon the applicant to establish, through tangible and convincing material, that his intended arrest is tainted with mala fide on the part of the complainant or the investigating agency. Mere allegations of innocence, previous enmity, delay in lodging the FIR, or the existence of a case calling for further inquiry are not, by themselves, sufficient grounds for the grant of pre-arrest bail unless accompanied by proof of mala fide or abuse of the process of law.

7. The pre-arrest bail can only be extended where the applicant demonstrates that his arrest is sought for an ulterior motive and not for a fair investigation. Likewise, the existence of mala fide or abuse of the process of law is the sine qua non for granting pre-arrest bail. The extraordinary relief of pre-arrest bail cannot be granted merely because the accused raises a plea of false implication. Pre-arrest bail is to be granted only where exceptional circumstances exist, and the applicant successfully establishes mala fide or ulterior motive behind the proposed arrest.

8. The learned trial Court, after examining the FIR, statements recorded under Section 161 Cr.P.C., and the Medico-Legal Certificate, observed that the prosecution material corroborated the role attributed to applicant Naveed Ali and that the injury sustained by the complainant constituted *Shajjah-e-Hashimah* under Section 337-A(iii) PPC, an offence falling within the prohibitory clause. As no mala fide on the part of the complainant was established, the interim pre-arrest bail granted to Naveed Ali was recalled, and his application was dismissed.

9. It appears from the record that prima facie the applicant Naveed Ali is specifically attributed with causing *Shajjah-e-Hashimah* injury to the complainant, which is supported by the FIR, statements recorded under Section 161 Cr.P.C., and the Medico-Legal Certificate.

10. The submissions advanced by the learned counsel for the applicant do not appear to carry sufficient weight. Mere assertion of innocence or existence of previous enmity does not, by itself, entitle an accused to the extraordinary relief of pre-arrest bail, particularly where the same enmity furnishes a motive for the occurrence as well. Although the FIR was lodged after some delay, the complainant sustained injuries and was shifted to the hospital for medical treatment, which prima facie explains the delay. The applicant is specifically nominated in the FIR with the distinct role of causing a lathi blow on the complainant's face. This allegation finds corroboration from the statements of the prosecution witnesses recorded under Section 161 Cr.P.C. as well as the Medico-Legal Certificate, which confirms a *Shajjah-e-Hashimah* injury punishable under Section 337-A(iii) PPC, an offence falling within the prohibitory clause.

11. The plea that the complainant is a habitual litigant or that the witnesses are interested are matters requiring evidence and cannot, at this stage, discredit the prosecution's case. Significantly, the applicant has failed to demonstrate any mala fide, ulterior motive, or abuse of process on the part of the complainant or the investigating agency specifically directed against him, which is an essential prerequisite for the grant of pre-arrest bail. In these circumstances, the applicant has failed to establish exceptional grounds warranting the extraordinary concession of pre-arrest bail.

12. The reliance placed by the learned counsel for the applicant on the Muzamil Hussain case, supra, pertains to post-arrest bail, where the Hon'ble Supreme Court granted bail after finding that the case called for further inquiry owing to exceptional mitigating circumstances, including unexplained delay in lodging the FIR, previous enmity, absence of recovery, prolonged incarceration, likely delay in conclusion of trial, parity with a co-accused, and the applicability of Section 337-N(2), PPC.

13. It is a well-settled principle of criminal jurisprudence that the parameters governing post-arrest bail under Section 497 Cr.P.C. and pre-arrest bail under Section 498 Cr.P.C. are fundamentally different. Post-arrest bail is primarily considered on

the touchstone of reasonable grounds, applicability of the prohibitory clause, or the question of further inquiry under Section 497(2), Cr.P.C., whereas pre-arrest bail is an extraordinary equitable relief which can be granted only where the applicant successfully demonstrates mala fide, ulterior motive, or abuse of the process of law. The threshold for pre-arrest bail is therefore significantly higher, as mere merits of the case are not sufficient unless accompanied by strong indications of an improper motive behind the arrest. The Supreme Court has consistently held that pre-arrest bail cannot be granted as a matter of routine and is reserved for exceptional circumstances where protective jurisdiction is clearly warranted. In this view, reliance on a judgment concerning post-arrest bail, such as *Muzamil Hussain* case, is misplaced, as it was decided in the context of further inquiry under Section 497(2), Cr.P.C., and does not govern the stricter requirements applicable to pre-arrest bail under Section 498, Cr.P.C., unless the applicant independently satisfies those higher legal thresholds.

14. The present matter, however, concerns pre-arrest bail, which is an extraordinary and discretionary relief available only upon proof of mala fide, ulterior motive, or abuse of the process of law. Here, the applicant is specifically nominated in the FIR with the definite role of inflicting a lathi blow on the complainant's face. His role is consistently supported by the statements recorded under Section 161 Cr.P.C. and stands corroborated by the Medico-Legal Certificate, which attributes a Shajjah-e-Hashimah injury punishable under Section 337-A(iii), PPC. More importantly, the applicant has failed to demonstrate any mala fide or ulterior motive behind his implication.

15. Consequently, the applicant has failed to make out a case for confirmation of pre-arrest bail under Section 498 Cr.P.C. Accordingly, the bail application is dismissed, and the interim pre-arrest bail, vide order dated 7.11.2025, stands recalled.

16. Observation recorded herein is tentative in nature and shall not prejudice the case of either party at trial.

17. This bail application stands disposed of in the above terms.

**J U D G E**