

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 935 of 2025

[Deedar Ali alias Sawali Shar and 03 others v. The State]

Cr. Bail App. No. S – 936 of 2025

[Haji Abdul Rasheed alias Abdul Rasheed and another v. The State]

Applicants in Cr. Bail App. No. S-935/2025 by : Mr. Anwar Ali Lohar, Advocate

Applicants in Cr. Bail App. No. S-936/2025 : Present in person (their counsel not in attendance)

Complainant in Cr. Bail App. No. S-935/2025 by : Mr. Qaimuddin Malano, Advocate, holding brief for Mr. Liaquat Ali Malano, Advocate

The State by : Mr. Aftab Ahmed Shar, Additional Prosecutor General

Date of Hearing : 28.09.2026

Date of Decision : 28.09.2026

ORDER

ARBAB ALI HAKRO, J. – Through these two bail applications under Section 498, Cr.P.C., the applicants seek pre-arrest bail in Crime No.16 of 2025, registered at Police Station Andal Sundrani, District Ghotki, under Sections 365, 337-H(2), 148, 149 and 114, PPC (hereinafter referred to as “**the FIR**”). The learned Additional Sessions Judge-II, Ghotki dismissed their earlier applications (B.A. Nos. 1402 and 1428 of 2025) on 27.09.2025 and recalled the interim bail granted to them. The applicants were admitted to ad-interim pre-arrest bail by this Court on 01.10.2025. Both applications arise out of the same crime and were fixed together, so they are being decided by this common order.

2. The facts, as set out in the FIR lodged on 16.05.2025 at 1215 hours by complainant Ali Gul, son of Pehlwan, are that there was an exchange of harsh words between him and accused Nandho Mirani over a fish pond, after which the latter said he would see them. On 10.05.2025, the complainant, his sons Javed Hussain and Saddam Hussain, and Aftab Ali and Abdul Qadeer went to look after the leased fish pond at Belo Jahanpur

and stayed the night there. At about 11:00 p.m., by the light of batteries, they saw and identified the accused, namely Sawali Shar armed with a G-3 rifle, Bhamhoo armed with a gun, Abdul Rasheed armed with a Kalashnikov (K.K.), Mitho armed with a G-3 rifle, Ghulam Murtaza armed with a K.K., and Nandho Mirani armed with a rifle, along with four unidentified accused persons armed with weapons. They said they would teach the complainant party a lesson for the exchange of harsh words over the fish pond, and, at the instigation of Nandho Mirani, the accused dragged away Javed Hussain and Saddam Hussain at gunpoint, making aerial firing. The complainant party did not follow them for fear of murder. In the morning, the complainant informed his relatives, followed the footprints leading towards the katcha area, and then lodged the FIR. Of the present applicants, Deedar Ali alias Sawali, Bhamhoo, Abdul Rasheed and Mitho are nominated in the FIR, while Ali Hassan and Mashooque Ali are not named in it.

3. Learned counsel for the applicants in Cr. Bail App. No. S-935 of 2025 submits that the applicants are innocent and have been falsely implicated owing to enmity over the fish pond, which the complainant admits in the FIR itself. He further submits that the FIR was lodged after a delay of six days, which the complainant has not explained, although the place of occurrence is only about 4/5 kilometers from the police station. He submits that the applicants Ali Hassan and Mashooque Ali are not named in the FIR and were introduced only through the statements of the alleged abductees under Section 161, Cr.P.C., recorded on 03.09.2025, although the abductees themselves claim to have escaped from illegal detention on 03.06.2025. He further submits that no explanation is offered for the interval of three months, nor is any source of knowledge disclosed for their names. He submits that a dispute over the same subject-matter was already pending between the parties before this Court in C. P. No. D-486 of 2025, in which Javed Hussain is one of the respondents and in which the impugned allotment was suspended by order dated 21.05.2025, and that the FIR is a counterblast to the same. He adds that the incident is alleged to have occurred at night and that the identification is said to have been made by battery light, that the witnesses are close relatives of the complainant, and that the case calls for further inquiry within the meaning of Section 497(2),

Cr.P.C. He further submits that the applicants have attended the Court regularly since the grant of ad-interim bail.

4. The applicants in Cr. Bail App. No. S-936 of 2025, their counsel not being in attendance, have been heard in person.

5. Mr. Qaimuddin Malano, Advocate, holding brief for learned counsel for the complainant, states that the complainant has no objection to the confirmation of interim pre-arrest bail of the applicants.

6. Learned Additional Prosecutor General opposes the applications and submits that the applicants are nominated in a case of abduction of two individuals by armed persons, and that reasonable grounds exist to connect them with the offence. He has placed before the Court the police papers, according to which the abductees escaped on 03.06.2025 and their statements under Section 161, Cr.P.C. were recorded on 03.09.2025.

7. I have heard learned counsel for the parties and the applicants in Cr. Bail App. No. S-936 of 2025 in person, and have examined the record with their assistance. Although the complainant does not oppose the applications, they are being decided on merits, and the private settlement reported in the earlier orders of this Court has not been taken into account for that purpose. The applicants in the connected application are nominated in the FIR with allegations of the same nature as those against the nominated applicants in Cr. Bail App. No. S-935 of 2025, and the observations below apply to them in equally.

8. Pre-arrest bail is an extraordinary relief, available where the accused has been shown to be facing arrest on *mala fide* grounds or for ulterior motives¹. The material is to be assessed only tentatively at this stage.

9. The alleged offences are punishable under Sections 365, 337-H(2), 148, 149 and 114, PPC. The most severe of these, Section 365 PPC, carries a maximum sentence of seven years, and none of the offences falls within the prohibitory clause of Section 497(1) Cr.P.C. In such cases, grant of bail

¹ *Meeran Bux v. The State* PLD 1989 SC 347; *Rana Muhammad Arshad v. Muhammad Rafique* PLD 2009 SC 427.

is the rule and refusal the exception, to be justified by special circumstances².

10. The prosecution case itself shows that the parties were at odds over the fish pond, and the complainant has pleaded the same as the motive. Enmity is a double-edged weapon: it may supply motive for the offence, and equally it may supply reason for false implication. The record shows that the dispute did not arise with the FIR. C. P. No. D-486 of 2025 was already before this Court, with Javed Hussain, one of the alleged abductees, as a respondent. By order dated 21.05.2025, the impugned allotment was suspended, that is, within five days of the registration of the FIR. The timing of that order, close upon the alleged abduction and the FIR, lends some support to the plea of the applicants that the FIR was lodged to exert pressure in the said litigation. The plea cannot, at this stage, be brushed aside as a mere afterthought, and whether it is established is to be determined at trial.

11. The incident is alleged to have occurred on 10.05.2025 at 11:00 p.m., while the FIR was lodged on 16.05.2025 at 1215 hours, six days later, although the place of occurrence is about 4/5 kilometers from the police station. The only explanation in the FIR is fear of murder at night and a search the next morning by following footprints. This explains at best the night of the incident and the following morning, and does not account for the remaining days, during which two persons, one of them a grown man of about 33/34 years, had allegedly been carried away at gunpoint. In a case of abduction, prompt reporting is the natural human response, and an unexplained delay of this kind leaves room for deliberation and consultation before the accused were named.

12. The names of applicants Ali Hassan and Mashooque Ali do not appear in the FIR. They were introduced through the statements under Section 161, Cr.P.C. of the alleged abductees, which, according to the police papers, were recorded on 03.09.2025, although the abductees are said to have escaped on 03.06.2025. The three-month interval between

² *Tariq Bashir v. The State* PLD 1995 SC 34; *Muhammad Tanveer v. The State* PLD 2017 SC 733.

regaining liberty and naming these applicants is not explained on the record, nor is the source of the abductees' knowledge of their involvement. Their names surface almost four months after the FIR. Such implication, after an unexplained lapse, requires deeper scrutiny at trial, bringing the case of these two applicants within the ambit of further inquiry under Section 497(2), Cr.P.C.

13. So far as the applicants nominated in the FIR are concerned, the admitted enmity, the pending litigation and the delay of six days apply equally to them. The alleged identification at night by battery light is a matter of evidence, and whether it is safe to rely upon can be determined only at trial. The witnesses, by the complainant's own account, are his relatives and companions at the fish pond, and their interest in the outcome cannot be ignored at this stage. The alleged abductees, moreover, are stated to have been free of the applicants' custody since 03.06.2025, yet the case set up against these applicants was carried forward by statements recorded three months thereafter, which is a further circumstance requiring evidence to resolve.

14. The order dated 27.09.2025 of the learned Additional Sessions Judge-II proceeds on the footing that the abductees remained in custody for about four months until 03.09.2025, whereas the police papers produced before this Court show the date of escape as 03.06.2025 and the date of recording of their statements as 03.09.2025. This discrepancy goes to the credibility of the prosecution story and is to be resolved by evidence at trial. It was not adequately considered when recalling the interim bail.

15. The challan has been submitted, so the custody of the applicants is not required for further investigation. Since the grant of ad-interim bail on 01.10.2025, the applicants have attended the Court, and no misuse of the concession has been pointed out, nor has the State shown that they are likely to abscond, tamper with the evidence or repeat the offence.

16. In view of the above, the applicants have made out a case for further inquiry into their guilt within the meaning of Section 497(2), Cr.P.C., and the delay in the FIR, the admitted enmity and the earlier litigation lend support to

their plea of *mala fide*. Accordingly, the ad-interim pre-arrest bail granted to the applicants by orders dated 01.10.2025 is confirmed on the same terms and conditions, on their already furnished solvent sureties in the sum of Rs.50,000/- (Rupees fifty thousand only) each and P.R. bonds in the like amount.

17. The observations made herein are tentative in nature and shall not prejudice the case of either side at trial. The applicants shall continue to attend the trial Court regularly and shall not misuse the concession of bail, failing which the prosecution or the complainant may apply for cancellation of bail before the competent forum, in accordance with law.

18. Both bail applications stand **allowed** in the above terms. Office to place a signed copy of this order in the connected matter, Cr. Bail App. No. S-936 of 2025 and to transmit a copy thereof to the learned trial Court for information.

J U D G E

Abdul Basit