

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

**Crl. Bail Application No.S-823 of 2025**

Applicant: Rajib son of Muhammad Siddiq Jamali, 2) Abdul Qadeer son of Mola Bux Jamali, through Mr. Khalid Saeed Soomro, Advocate.

Complainant: Through Mr. Mumtaz Alam Laghari, Advocate.

For the State: Mr. Irfan Ali Talpur, D.P.G.

Date of hearing: 19-08-2025

Date of Order: 19-08-2025

**ORDER.**

**Jan Ali Junejo, J.** – This order shall dispose of the present Criminal Bail Application, filed by applicants Rajib S/o. Muhammad Siddiq Jamali and Abdul Qadeer S/o. Mola Bux Jamali, seeking the concession of post-arrest bail under Section 497, Cr.P.C., in connection with Crime No. 69 of 2025, registered at Police Station Saeedabad for offences under Sections 397 and 34, Pakistan Penal Code, 1860 (PPC). The applicants were previously denied bail by the learned Additional Sessions Judge Hala vide orders dated 01.07.2025 and 17.07.2025, respectively, and have now approached this Court.

2. The prosecution case, as set forth in the FIR lodged by complainant Azizullah S/o. Allah Bachayo Khaskheli on 06.06.2025, alleges that on 25.05.2025 at about 9:30 p.m., near Ali Bahar Shakh, the complainant along with his labourer was intercepted by three persons riding a motorcycle. It is claimed that in the headlight of the motorcycle, two of the culprits were identified as the present applicants, while the third was unknown and muffled. Applicant Rajib allegedly pointed a pistol at the complainant and caused butt

blows, whereas applicant Abdul Qadeer allegedly snatched cash amounting to Rs. 14,000/- and a mobile phone from the complainant, along with Rs. 400/- and a copy of NIC from his labourer. Thereafter, the culprits allegedly damaged the complainant's motorcycle before fleeing. The FIR was registered lateron.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to political rivalry and a dispute over agricultural land. He submitted that there is an unexplained delay of twelve days in lodging the FIR, which creates serious doubts about the veracity of the prosecution story. It was argued that no independent witness was associated during the investigation despite the alleged incident having taken place in a public area, and the only eyewitness is a labourer of the complainant, who is an interested witness. No robbed articles have been recovered from the applicants. Furthermore, the alleged offence under Section 397 PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C., and the case calls for further inquiry under Section 497(2) Cr.P.C. Lastly, the learned counsel prayed for grant of bail.

4. Conversely, learned counsel for the complainant opposed the grant of bail and argued that the applicants are specifically named in the FIR with a clear and active role attributed to each of them in the commission of the alleged offence. It was contended that the delay in lodging the FIR was due to the complainant's attempts to resolve the matter through the elders of the accused, which does not diminish the evidentiary value of the FIR. He further argued that the statements of witnesses recorded under Section 161 Cr.P.C. fully corroborate the complainant's version and that the applicants have a history of involvement in similar offences, making them undeserving of the concession of bail.

5. Learned Deputy Prosecutor General, while adopting the arguments of the complainant's counsel, submitted that the nature of the allegations, the specific role assigned to the applicants, and the recovery of incriminating statements from witnesses during investigation establish a prima facie case. He maintained that the alleged offence is of a serious nature, involving robbery committed on the force of a weapon, which creates terror and insecurity in society. He argued that the applicants, if released on bail, may tamper with the prosecution evidence or influence witnesses, thereby justifying refusal of bail at this stage.

6. I have carefully considered the submissions of learned counsel for the parties and the learned Deputy Prosecutor General for the State and undertaken a tentative appraisal of the material available on record, as permissible at the bail stage. Perusal of record shows that the alleged incident is stated to have occurred on 25.05.2025, while the FIR was lodged on 06.06.2025, showing an unexplained delay of twelve days. The complainant has not furnished any plausible explanation for this inordinate delay. It is a well-settled principle that such delay creates room for deliberation and consultation, thereby casting doubt on the prosecution case and rendering it susceptible to afterthought and fabrication. It is an admitted position on record that there exists long-standing enmity between the parties over agricultural land. While such enmity may constitute a motive, it may equally serve as a basis for false implication, particularly when coupled with unexplained delay in lodging the FIR and lack of independent corroboration. Courts have repeatedly held that in cases where enmity is admitted, the possibility of false implication cannot be ruled out without thorough scrutiny during trial. The incident allegedly occurred in a public area, yet no independent or neutral witness was joined during investigation. The only witness is the complainant's labourer, who is admittedly an interested witness. While such testimony

cannot be disregarded outrightly, absence of corroboration where reasonably possible renders the prosecution case doubtful for purposes of bail. No robbed articles have been recovered from the applicants during the investigation, which weakens the prosecution's claim of their direct involvement in the alleged occurrence. In view of admitted enmity, unexplained delay in registration of F.I.R., lack of independent corroboration, and absence of recovery, the case calls for further inquiry under Section 497(2) Cr.P.C. The applicants are in custody since their arrest; challan has been submitted; they are no longer required for investigation. They are residents of the same locality and there is no apprehension of abscondence or tampering with prosecution evidence. For these reasons, the case of the applicants is one of further inquiry and they are entitled to the concession of bail at this stage. In similar circumstances, this Court in Case of *Faiz Muhammad v. The State (2008 YLR 2023)* was pleased to grant bail to an accused facing, inter alia, a charge under Section 397, P.P.C., by observing that: *"Alleged incident is dated 22-5-2007, whereas F.I.R., is registered on 6-6-2007 and nothing has been robbed, in spite of it that, accused persons having Kalashnikovs, guns, hatchets and Lathies respectively. Complainant and P.Ws. are said to be related to each other and others are said to be private servants of the complainant and interested. Not only this, but enmity is also alleged with the complainant. Accused has been assigned a role of causing Lathi injuries to P.W. Muhammad Soomar, declared as Shajjah-i-Khafifah i.e. 337-A(i) P.P.C., punishment only for two years, and applicant is said to have not been previously convicted. It is settled principle of law that benefit of doubt always goes in favour of accused, whereas tentative assessment is to be made at bail stage. From aforesaid facts and circumstances, present matter requires further enquiry, therefore, as a grace applicant is admitted to bail on furnishing solvent surety in the sum of Rs.200,000 (Two lacs) and P.R. bond in the like amount to the satisfaction of the trial Court"*.

7. In view of the foregoing, the applicants are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) each and a P.R. bond in the like amount to the satisfaction of the learned trial Court and these are the reasons of my short Order dated 19.08.2025.

8. It is clarified that any observation made herein is of tentative nature and shall not prejudice the case of either party during the trial. If any of the applicants misuse the concession of bail or attempt to tamper with prosecution evidence, the trial Court shall be at liberty to take appropriate action in accordance with law.

**JUDGE**