

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Cr. Bail Application No.S-1073 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE
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11.09.2026

Applicant is present on interim pre-arrest bail.

Mr. Waqar Siyal, Advocate for applicant.

Ms. Rameshan Oad, Deputy Prosecutor General, Sindh.

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ZULFIQAR ALI SANGI, J:- Through the instant Criminal Bail Application, the applicant/accused Syed Saqib Hussain Shah seeks confirmation of the interim pre-arrest bail granted to him by this Court vide order dated 17.08.2026, in connection with Crime No.GO/01 of 2022, registered at Police Station Anti-Corruption Establishment, Jamshoro, for offences punishable under Sections 409, 406, 467, 468 and 34, P.P.C., read with Section 5(2) of the Prevention of Corruption Act. The applicant has also called in question the order dated 13.07.2026, passed by the learned Special Judge, Anti-Corruption (Provincial), Hyderabad, in Criminal Bail Application No.18 of 2025, whereby his prayer for bail was declined.

2. The applicant is present on interim pre-arrest bail. Learned counsel for the applicant, learned Assistant Prosecutor General, Sindh, and learned counsel appearing for the University have been heard at length. With their assistance, the record, including the F.I.R., challan, investigation material, previous orders passed by the Courts and the subsequent bail orders in favour of the co-accused, has been examined.

3. Briefly stated, the prosecution case is that the applicant, while serving as Accounts Officer at Mehran University of Engineering and Technology, Jamshoro, allegedly participated in the preparation, processing and/or facilitation of false and fabricated medical reimbursement claims submitted by employees of the University. An enquiry was thereafter conducted into the alleged irregularities, which, according to the prosecution, resulted in financial loss to the University. It is further alleged that, towards repayment of the disputed amount, cheques bearing Nos.31628819 for Rs.2,000,000/- and 31628820 for Rs.3,000,000/- were issued; however, both were

dishonoured for want of sufficient funds. The prosecution claims that an amount of Rs.5,000,000/- consequently remained outstanding, leading to registration of the present F.I.R. by the Welfare Officer of the University.

4. Learned counsel for the applicant contends that the applicant has been falsely implicated and that the allegations relating to preparation and processing of the reimbursement claims were directed against a number of employees. It is specifically submitted that the applicant neither issued nor signed the disputed cheques and had no authority to do so. It is further stated that, after registration of the F.I.R., the applicant deposited an amount of Rs.3,000,000/- with the University. The principal submission, however, is that the circumstances of the case have materially changed after dismissal of the applicant's earlier bail petition. In this regard, reliance has been placed upon the subsequent grant of pre-arrest bail to co-accused Syed Aijaz Ali Shah son of Syed Imam Ali Shah, a retired Accounts Officer of the University, who had previously been shown as absconder No.3 in the challan, vide order dated 16.01.2023 passed by the learned Trial Court. It is further pointed out that co-accused Syed Sajid Hussain Shah was subsequently granted post-arrest bail by this Court vide order dated 30.01.2023 in bail application No.S-1282 of 2022. According to learned counsel, the applicant is similarly placed and the subsequent orders constitute a fresh circumstance attracting the principle of consistency.

5. Conversely, learned Prosecutor has opposed the application on the ground that the applicant was specifically nominated in the F.I.R. and a role has been attributed to him in the alleged financial irregularities. According to him, the prosecution case finds support from the departmental enquiry as well as the two dishonoured cheques involving an amount of Rs.5,000,000/-. It is further contended that the applicant's earlier bail plea was dismissed by this Court and thereafter by the Honourable Supreme Court of Pakistan. Learned Prosecutor submits that the subsequent grant of bail to a co-accused does not, by itself, confer an automatic right upon the applicant, particularly where the role assigned to him is distinguishable.

6. The matter, therefore, requires examination from two interrelated aspects: whether the present application is maintainable in view of the earlier rejection of bail, including by the Honourable

Supreme Court, and, if so, whether the subsequent circumstances warrant confirmation of the interim pre-arrest bail already granted to the applicant.

7. The procedural history is not in dispute. The applicant's initial pre-arrest bail application was dismissed by the learned Special Judge, Anti-Corruption (Provincial), Hyderabad, vide order dated 14.03.2022. His subsequent Criminal Bail Application No.S-479 of 2022 was dismissed by this Court on 09.09.2022, whereafter he approached the Honourable Supreme Court of Pakistan through Criminal Petition No.1485 of 2022, which was dismissed on 12.12.2022. Subsequently, the applicant invoked the jurisdiction of this Court through Criminal Bail Application No.S-265 of 2025 seeking protective bail to enable him to surrender before the learned Trial Court and avail the remedy available to him in accordance with law. The said application was disposed of on 18.03.2025. Thereafter, the applicant filed Criminal Bail Application No.18 of 2025 before the learned Trial Court, relying, inter alia, upon the subsequent orders granting bail to co-accused. The said application was dismissed on 13.07.2026, resulting in the present proceedings. The earlier dismissal of the applicant's bail plea, particularly by the Honourable Supreme Court, undoubtedly carries binding legal significance. This Court cannot review, overrule or indirectly reopen an order passed by the Honourable Supreme Court on the material then available before it. The principle governing successive bail applications, however, does not render every subsequent application incompetent irrespective of intervening circumstances. The settled distinction is between re-agitation of a ground which was already available and consideration of a genuinely subsequent circumstance. In ***The State through Advocate-General, N.W.F.P. v. Zubair Ahmed and others (PLD 1986 SC 173)***, the Honourable Supreme Court recognized that a subsequent bail application may be entertained where it is founded upon a fresh ground which did not exist when the earlier application was considered. The same principle was reiterated in ***Nazir Ahmed and another v. The State and another (PLD 2014 SC 241)*** and subsequently reaffirmed in ***Muhammad Usman v. The State and another (2024 SCMR 28)***.

8. The rationale is that judicial finality precludes an accused from repeatedly inviting reconsideration of the same matter merely by reformulating arguments or relying upon material already available. At the same time, an order declining bail is necessarily relatable to

the circumstances existing at the time of its passing and does not constitute an absolute bar against consideration of a subsequent development which materially changes the factual or legal position. In the present case, the applicant's bail petition was dismissed by the Honourable Supreme Court on 12.12.2022. The subsequent orders granting bail to the co-accused were not before the Honourable Supreme Court and, therefore, could not have been considered by it. The applicant is accordingly not seeking reconsideration of the earlier order on the same material; rather, he relies upon a subsequent judicial development which, according to him, has altered his comparative position vis-à-vis his co-accused. This distinction is material. Maintainability and entitlement to bail are separate considerations. The existence of a subsequent circumstance may render a successive application competent for consideration, but it does not by itself determine the merits of the claim. The Court must still examine whether the intervening circumstance has any substantive bearing upon the applicant's case. The subsequent grant of bail to a co-accused is, by its very nature, an event occurring after the earlier proceedings and may constitute a fresh circumstance, subject always to examination of the comparative roles and the material available against the respective accused.

9. The principle of consistency is also relevant, though it cannot be applied mechanically. Bail granted to one accused does not automatically entitle another accused to the same concession. The Court must compare the nature of the allegations, the specific role attributed to each accused, the incriminating material available against them and any circumstance which may materially distinguish one accused from another. In ***Muhammad Aziz @ Mana v. The State and others (2023 SCMR 1773)***, the Honourable Supreme Court recognized the relevance of consistency where an accused seeking bail is similarly placed with a co-accused who has already been extended the concession of bail. Thus, the subsequent bail order is required to be considered not as an independent source of entitlement, but as a circumstance necessitating a fresh comparative assessment. In the present case, the prosecution has not been able to identify any subsequent material which materially distinguishes the applicant from the co-accused who have subsequently been granted bail. Nor has it been demonstrated, at this stage, that the applicant's role is graver or qualitatively different so as to justify a different treatment. Accordingly, the present application, being founded upon

circumstances which arose subsequent to the earlier adjudication, is maintainable. This finding does not amount to review or reconsideration of the order dated 12.12.2022 passed by the Honourable Supreme Court; that order remains intact and binding in relation to the circumstances existing when it was passed.

10. Turning to the merits, the allegations against the applicant concern the alleged preparation, processing or facilitation of false medical reimbursement claims and the consequential financial loss allegedly suffered by the University. The applicant disputes his direct involvement and specifically asserts that he neither issued nor signed the two dishonoured cheques and had no authority to issue or sign them. At the present stage, it would neither be proper nor permissible to conclusively determine who prepared the disputed bills, who verified or sanctioned them, who authorized the relevant payments or who issued the cheques. Such questions are matters of evidence and require examination of the University's financial record, documentary material, enquiry proceedings and the testimony of the relevant officials. The mere fact that the applicant was serving as an Accounts Officer cannot, without more, establish criminal liability. His precise participation and the nexus between his conduct and the alleged offences must ultimately be determined on the basis of evidence recorded at trial. The prosecution material, as presently disclosed, is substantially documentary in nature, comprising reimbursement bills, official correspondence, financial records, enquiry proceedings, sanction and payment documents and banking instruments. No specific circumstance has been brought on record demonstrating that the applicant's custodial arrest is indispensable for recovery of such material or for any particular investigation which cannot otherwise be carried out in accordance with law. It is true that Sections 409 and 467, P.P.C. fall within the prohibitory clause of Section 497, Cr.P.C. Nevertheless, the mere invocation of an offence falling within that clause does not relieve the Court of its obligation to undertake a tentative assessment of the available material. At the bail stage, the Court is neither required nor authorized to conduct a detailed appraisal amounting to a mini-trial. Where the material gives rise to a reasonable doubt regarding the precise role of an accused or the nexus between his alleged conduct and the offences charged, the case may call for further inquiry within the meaning of Section 497(2), Cr.P.C.

11. In the instant matter, the precise nature of the applicant's participation in preparation and processing of the reimbursement claims, his authority over the relevant financial transactions and his connection with issuance of the disputed cheques remains matters requiring determination through evidence. The Court, at this stage, cannot record a final finding either accepting or rejecting the defence set up by the applicant. The allegation concerns public funds and is undoubtedly serious; however, seriousness of an accusation, by itself, cannot determine the question of pre-arrest bail. The Court must also consider the individual role attributed to the accused, the quality and nature of the material available, the necessity of arrest and the surrounding circumstances. Pre-arrest bail is an extraordinary relief and must be granted with due caution, but arrest cannot be permitted to assume the character of punishment before determination of guilt. The applicant has remained on interim pre-arrest bail pursuant to the order dated 17.08.2026. Nothing has been brought on record to suggest that he has misused the concession or attempted to obstruct the investigation or proceedings. There is no material allegation of abscondence, intimidation of witnesses, tampering with evidence or interference with the course of justice during the period for which he has enjoyed interim protection. His conduct during this period, coupled with the subsequent grant of bail to co-accused and the absence of any demonstrated circumstance materially distinguishing his role from theirs, weighs in favour of continuation of the protection already extended to him.

12. Upon a tentative assessment of the record, the following circumstances are material: the present application is based upon subsequent developments which were not available when the applicant's earlier bail plea was decided; co-accused have subsequently been granted bail; no materially graver or distinct role of the applicant has been demonstrated at this stage; the applicant disputes having issued or signed the disputed cheques; the principal evidence is documentary; his precise role requires determination through evidence; and no misuse of the interim protection has been established. Taken cumulatively, these circumstances bring the case within the ambit of further inquiry under Section 497(2), Cr.P.C. and provide sufficient justification for confirmation of the interim pre-arrest bail. The Court is conscious that the applicant's earlier bail plea was dismissed by the Honourable Supreme Court. That order has neither been questioned nor reconsidered through the present

proceedings. The present determination rests upon circumstances which subsequently came into existence, particularly the subsequent grant of bail to co-accused and the resulting comparative assessment of the applicant's position. The earlier order and the present order, therefore, operate upon materially different factual circumstances. There is consequently no occasion for this Court to review, dilute or sit in appeal over the earlier order of the Honourable Supreme Court.

13. For the foregoing reasons, the instant Criminal Bail Application is **allowed**. The interim pre-arrest bail granted to the applicant/accused Syed Saqib Hussain Shah by this Court vide order dated 17.08.2026 is hereby confirmed on the same terms and conditions. The applicant shall appear before the learned Trial Court on each and every date fixed in the case unless his personal appearance is lawfully exempted. He shall not directly or indirectly influence, intimidate or induce any prosecution witness, nor shall he tamper with the prosecution evidence. He shall cooperate with the proceedings and remain available to the process of law. In case of misuse of the concession, unauthorized absence before the learned Trial Court, attempt to influence or intimidate any prosecution witness, tampering with evidence, abscondence or violation of any condition imposed by this Court, the prosecution shall be at liberty to seek cancellation of bail in accordance with law.

14. The observations made herein are tentative in nature and confined strictly to the adjudication of the question of bail. Nothing contained in this order shall prejudice either party at the trial. The learned Trial Court shall independently appreciate the evidence, determine all questions of fact and law arising before it and decide the case strictly in accordance with law, uninfluenced by any observation made herein. It is further clarified that the finding regarding maintainability of the present application is founded upon the subsequent change in circumstances, particularly the subsequent orders granting bail to co-accused, and shall not be construed as a review, reconsideration or dilution of the earlier order passed by the Honourable Supreme Court of Pakistan.

JUDGE

****Hafiz Fahad****