

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application Nos. 1189, 1093 & 1188 of 2025

Applicant : i. Rahib Ali son of Ali Dino
ii. Ali Raza son of Ghulam Hassan,
Through Mr. Haji Younis, Advocate

Respondent : The State
through Ms. Rahat Ehsan, Addl. P.G Sindh

Date of hearing : 20.05.2025.

Date of order : 23.05.2025.

ORDER

KHALID HUSSAIN SHAHANI, J. – Through these three criminal bail applications, accused Rahib Ali seeks post-arrest bail in Crime Nos. 394/2025 and 395/2025, while co-accused Ali Raza seeks post-arrest bail in Crime No. 394/2025, all registered at Police Station Site Super Highway, Karachi, under Sections 397/34 PPC, with Section 23(1)(a) Sindh Arms Act added in Crime No. 394/2025. Previously bail were declined by the learned Additional Sessions Judge-VIII Malir Karachi vide orders dated: 30.04.2025.

2. The complainant lodged the FIR stating that on 16.03.2025 at about 12:30 a.m., while returning home on foot near Main Bazar, Sukhia Goth, two armed persons intercepted him and robbed him of a mobile phone (Realme Note 50, dual SIM), a wallet containing Rs. 400, and a CNIC color copy. Upon his hue and cry, residents gathered and managed to apprehend one of the dacoits Rahib Ali who was reportedly beaten by the public and later taken into custody by police officials patrolling nearby. From his possession, a 30-bore pistol, cash, the complainant's mobile phone, and other robbed articles were allegedly recovered. The co-accused, Ali Raza, allegedly fled the scene.

3. Learned counsel contended that the accused are innocent and have been falsely implicated due to ulterior motives. It was argued that no independent witness was associated at the time of arrest or recovery, which is in violation of Section 103 Cr.P.C. Further, it is contended that no weapon or stolen articles were recovered from Ali Raza, who was arrested two days after the incident, and that the memo of arrest contains

discrepancies in his name. It was also argued that in Crime No. 395/2025, which appears to be a similar robbery incident, the allegations are primarily based on uncorroborated statements without any recovery or forensic linkage to the accused. Learned counsel further submitted that the MLO report indicates that Rahib Ali was already in police custody on 15.03.2025, a day prior to the incident date as stated in the FIR of Crime No. 394/2025, raising serious doubts on the credibility of the prosecution case. It is also pointed out that no mobile phone was recovered in Crime No. 395/2025, nor any independent witness examined, making the case doubtful.

4. Learned APG, while opposing the bail, contended that the applicants are involved in a serious offence punishable under Section 397 PPC, which carries severe punishment, and that one of the accused was arrested from the spot with the crime weapon and robbed articles, while the other was identified during the investigation.

5. The record reflects that only accused Rahib Ali was arrested at the spot and allegedly found in possession of the pistol, cash of Rs.400/- and CNIC copy of the complainant. As per the FIR, it is not clear whether both accused were armed or otherwise. What is particularly noteworthy is that in the identification parade, the complainant stated that Ali Raza was also armed and pointed a pistol at him, which contradicts the recovery evidence because the accused Ali Raza was not shown armed with weapon, as no weapon or any other article i.e. mobile phone was recovered from Ali Raza during investigation. This contradiction raises doubts as to the specific role assigned to each accused.

6. In such circumstances, factual discrepancies, including the date of arrest mentioned in the MLO report, absence of recovery from Ali Raza, and uncertain role attribution, suggest that the case calls for further inquiry within the meaning of Section 497(2) Cr.P.C.. The offence under Section 397 PPC, although serious, does not per se fall within the prohibitory clause of Section 497(1) Cr.P.C., and the mere gravity of offence is not a sole ground for refusal of bail, particularly where the prosecution story suffers from material contradictions.

7. It is well-settled that deeper appreciation of evidence is not permissible at the bail stage, and the question of guilt or innocence will be determined after recording of evidence at trial.

8. Accordingly, all three bail applications are allowed. The applicants, Rahib Ali and Ali Raza, are admitted to post-arrest bail in Crimes No. 394/2025 and 395/2025, subject to furnishing solvent surety in the sum of Rs. 100,000/- (One Hundred Thousand only) in each case by each accused and P.R. bond in the like amount to the satisfaction of the trial Court. Needless to add, the observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

J U D G E