

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

Criminal Bail Application No.S-1017 of 2025

Applicants : 1. Pervez Ahmed Otho @ Parial @ Paroo s/o Kamil Otho,
2. Naeem Otho s/o Inam Otho,
3. Khan Muhammad Otho s/o Muhammad Yousif Otho through Mr. Irfan Ali Khaskheli, advocate.

Respondent : The State, through Mr. Irfan Ali Talpur, Deputy Prosecutor General, Sindh.

Date of hearing : 29.09.2025
Date of order : 29.09.2025

ORDER

TASNEEM SULTANA, J.- Through this bail application, the applicants Pervez Ahmed Otho @ Parial @ Paroo, Naeem Otho and Khan Muhammad Otho seek pre-arrest bail in Crime No.10 of 2025, under Sections 379, 427 PPC & 26 of Forest Act, 1927, registered at PS Mahi Otho, District Jamshoro. Prior to this applicants applied for the same relief before learned Additional Sessions Judge, Sehwan, but the same was recalled vide order dated 20.08.2025.

2. Brief facts of the case are that the complainant Allah Warayo, posted as Forest Guard at Kundah Block, Sehwan, lodged FIR on 22.06.2025 at 1900 hours alleging therein that on 22.06.2025, while patrolling in Kundah Forest along with Forest Guards Ghulam Shabir and Gul Hassan, they reached Chowkri No.17 at about 08:00 a.m., where they saw the accused persons namely Mehrab, Suhrab, Khair Muhammad, Naeem, and Paryal alias Paroo, armed with axes, and accused Khan, armed with a tree cutter machine (chainsaw), cutting forest trees. The felled trees were loaded onto three “Dom Rickshaws,” and upon seeing the complainant party, the accused fled towards village Mahi Otho, taking the trees with them. The complainant informed his superiors about the incident and, under their directions, lodged the present FIR.

3. Learned counsel for the applicants contends that the applicants are innocent and have been falsely implicated with mala fide on the part of the complainant due to political victimization; that all the alleged eyewitnesses are officials/subordinates of the complainant and hence are interested witnesses,

lacking independent corroboration; that the offences alleged do not fall within the prohibitory clause of Section 497(1) Cr.P.C.

4. On the other hand, the learned Deputy Prosecutor General appearing for the State opposed the confirmation of bail, arguing that the applicants are specifically nominated in the FIR with clear roles attributed to them, including the theft of government property; that the allegations are serious in nature and that the recovery of stolen forest produce is yet to be effected.

5. Heard. Record perused.

6. The admitted delay of 11 hours in lodging the FIR, without convincing explanation, in a case where the applicants/accused are admittedly known to the complainant, creates a cloud of doubt over the prosecution story at this stage. Furthermore, all the cited eyewitnesses are admittedly officials/subordinates of the complainant, which prima facie renders their testimony interested and dependent on the complainant's version, an aspect that will require deeper scrutiny at trial.

7. Further, it is an admitted position that no recovery has been effected from the possession of the present applicants/accused in this case. In these circumstances, learned counsel has successfully made out a case for grant of bail. The alleged offences do not fall within the prohibitory clause of Section 497(1) Cr.P.C., and it is a settled principle of law, that in non-prohibitory offences grant of bail is a rule and refusal is an exception. The purpose of pre-arrest bail is to protect an innocent citizen from harassment, humiliation, and unjustified arrest, without obstructing the course of justice. The applicants have already joined the investigation, and no material has been brought on record to show that their custodial interrogation is indispensable.

8. In view of the above circumstances, coupled with the fact that the matter requires further inquiry within the meaning of Section 497(2) Cr.P.C., this bail application was allowed vide my short order dated 29.09.2025 and these are the reasons in support thereof.

9. The observations made hereinabove are tentative in nature and shall not prejudice the trial Court at the stage of final determination.

JUDGE

Irfan Ali