

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

Criminal Bail Application No.S-296 of 2026

Applicants: Muhammad Shafique and Habib Ur Rehman
through Mr. Ghulam Shabbir Mari, Advocate.

Respondent: The State through Mr. Khalid Hussain Lakho,
Deputy Prosecutor General, Sindh.

Date of hearing: 16.03.2026

Date of order: 16.03.2026

ORDER

Riazat Ali Sahar, J.- Through the instant bail application filed under Section 497 Cr.P.C., the applicants, Muhammad Shafique and Habib-ur-Rehman, seek post-arrest bail in Crime No. 305 of 2025, registered at Police Station B-Section Shaheed Benazirabad, for an offence punishable under Section 411 P.P.C. Their earlier bail application was declined by the learned Additional Sessions Judge-II, Shaheed Benazirabad, vide order dated 30.01.2026.

2. As per the prosecution case, on 03.12.2025 at about 1900 hours, the applicants were allegedly found present at Sim Nala Bridge on 60-Mile Road, purportedly lying in wait to commit a road robbery. A police patrol party, led by ASI Athar Hussain Channa, reached the spot and apprehended the applicants, recovering 6 kilograms and 700 grams of silver ornaments allegedly constituting stolen property.

3. Learned counsel for the applicants contended that the offence under Section 411 P.P.C. does not fall within the prohibitory clause of Section 497 Cr.P.C., thus attracting the rule of grant of bail. It was argued that the alleged recovery alone, even if taken at face value, is insufficient to establish conscious possession or knowledge that the property was stolen. It was further submitted that no identification parade of the recovered property has been conducted, rendering the recovery doubtful and bringing the case within the ambit of further

inquiry. Learned counsel also contended that the alleged confessional statements made before the police are inadmissible under Article 38 of the Qanun-e-Shahadat Order, 1984, and that the prosecution case is devoid of independent corroboration. The alleged involvement in other cases, it was urged, is irrelevant at the bail stage.

4. Conversely, learned Deputy Prosecutor General opposed the application, contending that the substantial recovery of stolen property indicates the applicants' involvement in criminal activities. He argued that the non-applicability of the prohibitory clause does not automatically entitle the applicants to bail, particularly in view of their alleged involvement in other cases.

5. I have heard learned counsel for the parties and have examined the record with their assistance.

6. A tentative assessment of the material on record reflects that the applicants were arrested during snap checking at 60-Mile Naka Chowk, and the alleged recovery was effected from a vehicle. The purported admissions made before the police are legally inadmissible and, in any case, constitute weak evidence requiring corroboration at trial. Admittedly, all the prosecution witnesses are police officials, and no independent witness has been associated with the recovery proceedings. Furthermore, the recovered property has not been identified by the complainants of the connected FIRs bearing Crime Nos. 207 and 208 of 2025 registered at Police Station Umerkot under Sections 380 and 457 P.P.C., which creates doubt regarding its linkage with the alleged offences. The investigation has been completed, and the applicants have remained in custody for a considerable period. Their further detention would serve no useful purpose and would amount to pre-trial punishment. The maximum punishment provided for the offence under Section 411 P.P.C. is up to three years, which does not fall within the prohibitory clause of Section 497 Cr.P.C. It is a settled principle of law that in cases not falling within the prohibitory clause, grant of bail is a rule and refusal is an exception, unless exceptional circumstances are shown. Reliance is placed on the cases of **Tariq Bashir and others v. The**

State (PLD 1995 SC 34) and **Muhammad Tanveer v. The State** (2017 SCMR 366), wherein it has been held that where the case calls for further inquiry, the accused is entitled to the concession of bail under Section 497(2) Cr.P.C.

7. In view of the foregoing, this Court is of the considered opinion that the case of the applicants calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, the instant bail application was **allowed** vide short order dated 16.03.2026. These are the reasons thereof.

8. It is clarified that the observations made herein are tentative in nature and shall not influence the trial Court, which shall decide the case strictly on its own merits

JUDGE

Muhammad Danish