

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-491 of 2026

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Applicant By: Mr. Bhooro Bheel, Advocate.
Complainant By: Mr. Inam Mangrio, Advocate.
State By: Mr. Neel Parkash, D.P.G Sindh.
Date of Hearing: 30.09.2026
Date of Order: 30.09.2026

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ORDER

Muhammad Humayon Khan, J.:- The Applicant, Ali Nawaz @ Alero, has been nominated in Crime No.36 of 2026 registered at Police Station Shadi Palli under Sections 395, 341, 457, 506(ii) of the Pakistan Penal Code. His post-arrest bail application before the learned Additional Sessions Judge-I, Umerkot, was dismissed vide order dated 12.09.2026 and he has, therefore, approached this Court for the same relief.

2. The prosecution case, briefly stated, is that the complainant owns agricultural land in Deh New Khipri adjacent to the agricultural land of his cousin Mouchar Mangrio, where they have a joint otaq and cattle pen. During the night of 22/23.07.2026, at about 02:00 a.m., the complainant along with Muhammad Ilyas Jatt and Abdul Karim Mangrio, after taking meals, went to sleep at the otaq. At about 02:00 a.m., they heard noise coming from the cattle pen and, on waking up, allegedly saw five persons in the light of torches, three of whom were inside the cattle pen while two remained outside. Four of them were allegedly identified, including the present Applicant, Ali Nawaz @ Alero Shar, who was stated to be armed with a pistol. It is alleged that the accused persons pointed their weapons towards the complainant party and compelled them to remain silent, whereafter cash amounts, a mobile phone and torches were taken from them. Accused Ghulam Rasool allegedly took away one white-coloured calf, whereas co-accused Daim Shar and an unidentified accused allegedly took away two white-coloured goats and one red-coloured goat. The present Applicant and co-accused Battar Shar allegedly threatened the complainant party with death if they followed them. The accused thereafter left the place along with the cattle and other allegedly robbed property. Instead of immediately reporting the matter to the police, the complainant allegedly approached elders/notables of the locality for return of the property and, when such

efforts remained unsuccessful, lodged the FIR.

3. Mr. Bhooro Bheel, learned counsel for the Applicant, contended that the Applicant is innocent and has been falsely implicated due to previous enmity. He submitted that the occurrence allegedly took place at about 02:00 a.m. and identification in torchlight is doubtful; that the FIR was lodged after about fifteen days; that no firing or injury is attributed to the Applicant; and that the alleged recovery of a torchlight is a matter to be determined at trial. He further submitted that co-accused Daim Shar, despite being assigned the specific role of taking away three goats, has already been granted post-arrest bail by the learned Additional Sessions Judge-I, Umerkot, vide order dated 12.09.2026. He further submitted that the alleged offences do not fall within the prohibitory clause of Section 497(1), Cr.P.C. He, therefore, prayed for the grant of post-arrest bail. He relied on case laws viz: **2025 SCMR 1596 [Supreme Court of Pakistan]**, **2025 SCMR 2013 [Supreme Court of Pakistan]** and **2025 MLD 721 [Sindh (Sukkur Bench)]**.

4. Mr. Inam Mangrio, learned counsel for the complainant opposed the application and contended that the Applicant is specifically nominated in the FIR with an active role and that a robbed torchlight was recovered from him, thereby distinguishing his case from that of co-accused Daim Shar. He further submitted that the delay in lodging the FIR has been sufficiently explained, as the complainant had initially approached the elders/notables for return of the robbed property. He, therefore, prayed for dismissal of the bail application.

5. Learned Deputy Prosecutor General Sindh, opposed the grant of bail and supported the prosecution case.

6. After hearing learned counsel for the applicant, learned counsel for the complainant and learned Deputy Prosecutor General for the State, and going through the record, I am inclined to grant bail for the following reasons:

- i. The alleged occurrence took place at about 02:00 a.m. and the accused were allegedly identified in torchlight. The reliability of such identification, including the source and sufficiency of illumination, requires examination at trial.
- ii. The FIR was lodged after about fifteen days. Though the complainant has explained that he initially approached elders/notables for return of the robbed property, the sufficiency and effect of such explanation remain matters for trial.
- iii. Although the Applicant was allegedly armed with a pistol, no firing or firearm injury is attributed to him. The alleged recovery of a robbed torchlight from him is a matter whose evidentiary worth

and connection with the occurrence are yet to be determined at trial.

- iv. Co-accused Daim Shar has already been granted post-arrest bail by the learned Additional Sessions Judge-I, Umerkot, vide order dated 12.09.2026, despite being specifically attributed the role of taking away three goats. His case was treated as one of further inquiry as no robbed article, weapon or other incriminating material was recovered from him.
- v. Though the alleged recovery of a torchlight distinguishes the Applicant's case from that of Daim Shar, the rule of consistency requires consideration of the respective roles and material against the accused.
- vi. Thus, the nighttime identification through torchlight, delay of about fifteen days in lodging the FIR, the nature of the alleged recovery, and grant of bail to co-accused Daim Shar, when considered cumulatively, make the case one of further inquiry within the meaning of Section 497(2), Cr.P.C.

6. For these reasons, the instant bail application is allowed and the Applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) and P.R Bond in the like amount to the satisfaction of the learned Trial Court. However, in the event that the applicant is found in any manner misusing the concession granted by this order, the learned Trial Court shall be at liberty to cancel their bail as per law.

7. It is clarified that the observations made above are tentative in nature and shall not prejudice the case of either party at the trial. The learned Trial Court shall decide the case independently on the basis of the evidence brought before it.

JUDGE

Faisal