IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3233 of 2026

Applicant : Abid son of Shah Gul
Through Muhammad Shair Khan, Advocate

Criminal Bail Application No.2140 of 2026

Applicant : Talha Khalid son of Muhammad Khalid
Through Mr. Muzafar Hussain Solangi, Advocate

Criminal Bail Application No.2152 of 2026

Applicants : Ali Raza son of Asghar Javed
Through Mr. Aamir Shahzad, Advocate

Respondent : The State
Through Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General Sindh.

Date of hearing : 11.11.2026

Date of Order : 11.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** These three applications, arising out of the same crime and involving substantially common questions of fact and law, are being decided through this consolidated order. The applicants seek post-arrest bail in a case bearing Crime No. 852/2026, for under Section 395, PPC, of Police Station Shah Latif Town, Karachi.

2. The prosecution case, briefly stated, is that on 02.05.2026, at about 11:15 p.m., complainant Ali Hamza, accompanied by his maternal uncle Faryad Ali and cousin Rizwan, was selling milk near Bhains Colony Road, National Highway, when six unidentified armed persons, riding two motorcycles, allegedly deprived them of mobile phones and cash, including about Rs.100,000/-, and escaped. The FIR was lodged on 03.05.2026 at 1:30 a.m. against six unknown persons, whom the complainant claimed he could identify if produced before him.

3. Learned counsel for the applicants, while controverting their involvement, principally assailed the identification proceedings dated 12.05.2026, contending that the applicants were neither nominated in the FIR nor was any description furnished capable of facilitating their subsequent identification. Their principal objection was that all six suspects were

identified by Usman Ali son of Abdul Hameed, brother of the complainant, although neither his name nor his presence at the occurrence finds mention in the FIR. Admittedly, however, Usman Ali was examined by the investigating officer under Section 161, Cr.P.C., on 03.05.2026, wherein he professed to have witnessed the occurrence. The defence nevertheless maintained that the omission of his presence from the FIR, notwithstanding the express mention of Faryad Ali and Rizwan, assumes significance when the complainant and those two stated victims did not themselves participate in the identification proceedings. It was further argued that the mobile telephone allegedly recovered during investigation cannot furnish independent corroboration because its IMEI number does not correspond with either of the IMEI numbers specifically recorded in the FIR. Learned counsel submitted that the prosecution thus lacks reliable evidence connecting the applicants with the stolen property, while their implication principally rests upon an identification exercise whose evidentiary worth remains open to serious question.

4. Learned counsel for Talha Khalid additionally invoked the Juvenile Justice System Act, 2018, relying upon his school-leaving and birth registration certificates, which record his date of birth as 25.03.2010, establishing that he was below eighteen years of age at the time of the alleged occurrence. Learned counsel for Ali Raza also referred to the complainant's affidavit of no-objection and orders granting bail to the applicant in other criminal cases. Reliance was placed, inter alia, upon 2024 SCMR 589[1], 2026 YLR 774[2], and other authorities concerning identification evidence and further inquiry. Conversely, learned A.P.G. opposed the applications, maintaining that the applicants had been identified in judicial proceedings, that recoveries had been effected during investigation and that the allegations constituted a grave offence falling within the prohibitory clause of Section 497(1), Cr.P.C.

5. Heard. Record examined. At the outset, it bears emphasis that the gravity of an accusation, notwithstanding its undeniable relevance, cannot dispense with the statutory requirement of reasonable grounds connecting an accused with the commission of the offence. Section 395, PPC, undoubtedly attracts the prohibitory clause of Section 497(1), Cr.P.C.; nevertheless, where the incriminating material admits of a substantial question concerning identity or participation, the statutory protection of

[1] Kashif v. Imran and another
[2] Muhammad Umer v. The State

further inquiry under Section 497(2), Cr.P.C., remains available. The Court, at this stage, is concerned not with determining guilt but with ascertaining whether the accusation rests upon material sufficiently dependable to justify continued deprivation of liberty.

6. The principal incriminating circumstance is the identification of the applicants by Usman Ali during proceedings conducted before the learned III Judicial Magistrate, Karachi Malir, on 12.05.2026. It is material that Usman Ali is the complainant's brother and that his statement under Section 161, Cr.P.C., was recorded on 03.05.2026, the very date of registration of the FIR, wherein he claimed to have witnessed the occurrence. His introduction as a prosecution witness, therefore, cannot properly be characterized as a belated development during investigation. Equally, his relationship with the complainant does not, by itself, render his testimony unworthy of belief. Nonetheless, these circumstances do not completely answer the defence objection. The FIR contains a particularized account of the persons present at the occurrence, expressly naming Faryad Ali and Rizwan, besides the complainant, but makes no reference to Usman Ali, notwithstanding his claimed presence and relationship with the complainant. This omission, though not necessarily fatal to the prosecution, becomes relevant when the identification of all six suspects has been attributed to him alone, without corresponding identification by the complainant or either of the two persons expressly mentioned in the foundational account.

7. A test identification parade is essentially a corroborative exercise, designed to test the capacity of a witness to recognize a previously unknown offender. Its evidentiary value depends not merely upon compliance with procedural formalities but also upon the credibility of the identifying witness, his opportunity of observation and the circumstances preceding the parade. The certification of the learned Magistrate constitutes relevant assurance regarding the conduct of the proceedings; it does not, however, conclusively establish the identifying witness's presence at the occurrence or eliminate the necessity of examining the source and reliability of his recognition. The omission of Usman Ali from the FIR, read with his contemporaneously recorded statement under Section 161, Cr.P.C., thus presents competing circumstances which cannot appropriately be resolved through a summary assessment at the bail stage. The matter necessarily requires examination of the prosecution witnesses at trial. It would be equally impermissible either to reject the

identification evidence outright merely because Usman Ali was not named in the FIR or to accord it conclusive weight solely because the suspects were identified before a Magistrate.

8. The prosecution's reliance upon the alleged recovery is attended by an additional and independent infirmity. The FIR specifically mentions the complainant's mobile telephone by its IMEI numbers, 350613387245752 and 350613383890049. The mobile telephone subsequently shown as recovered during investigation admittedly bears an IMEI number which does not correspond with those particulars. The discrepancy is material because an IMEI number constitutes a distinguishing identifier of a mobile device and provides an objective means of verifying whether the recovered article is the one allegedly taken during the occurrence. In the absence of a satisfactory explanation or other dependable material establishing the identity of the recovered telephone, its mere similarity in make or description cannot safely be treated, even tentatively, as sufficient corroboration of the allegation that it constituted the stolen property. Nor can possession of an article not shown to correspond with the particulars recorded in the FIR, without further connecting evidence, conclusively link the applicants with the dacoity. The mismatch, therefore, materially diminishes the corroborative force attributed to the recovery, leaving its true evidentiary significance to be determined at trial.

9. The legal position is reinforced by Kashif v. Imran and another (2024 SCMR 589), wherein the Supreme Court, while considering an accusation under Section 395, PPC, treated uncertainty concerning identification, coupled with the absence of recovery of the stolen articles, as furnishing grounds for further inquiry. The decision in 2026 YLR 774[3] likewise emphasizes that identification proceedings must be examined in their factual setting and that circumstances impairing their reliability may attract Section 497(2), Cr.P.C. The latter authority concerned prior identification and nomination of the accused before the parade and is, therefore, distinguishable in that respect; nevertheless, its exposition of the principles governing identification evidence remains instructive.

10. Applying these principles individually, the prosecution case against Abid son of Shah Gul rests substantially upon his identification by Usman Ali and the recoveries attributed to the accused during investigation. Neither his name nor any distinguishing description appears in the FIR. The

[3] Muhammad Umer v. The State

circumstances affecting the reliability of the identifying witness, considered alongside the absence of a satisfactorily established nexus between the recovered mobile telephone and the article described in the FIR, render his alleged participation a matter of further inquiry. The position of Ali Raza son of Asghar Javed is materially similar. Although the prosecution relies upon his identification and alleged recovery, the aforesaid discrepancies require determination through evidence. The complainant's purported affidavit of no-objection cannot, by itself, justify bail or effect a compromise of the non-compoundable offence; nor can the applicant's implication in other criminal cases, without legally relevant connecting material, substitute for proof of his participation in the present occurrence. The variation in his parentage appearing in the identification record also requires clarification, though it is not being treated as conclusive evidence of mistaken identity.

11. The case of Talha Khalid carries the additional consideration of juvenility. His birth registration and school-leaving certificates consistently record his date of birth as 25.03.2010, which prima facie establishes that he was sixteen years and thirty-eight days old on the date of the occurrence. Section 6(4) of the Juvenile Justice System Act, 2018, permits refusal of bail to a juvenile above sixteen years accused of a heinous offence where reasonable grounds exist for believing in his involvement. In the present case, however, the prosecution material, for the reasons already recorded, requires further inquiry into his identity and participation. His continued detention must, therefore, be considered within the special statutory protection accorded to juvenile offenders. His age shall be formally determined in accordance with Section 8 of the Act.

12. The applicants have remained in custody, and the investigation material has substantially been secured by the prosecution. No specific circumstance has been demonstrated to suggest that their release, subject to adequate safeguards, would necessarily frustrate the administration of justice. The previous orders refusing bail primarily proceeded upon the identification proceedings and alleged recoveries, without adequately examining the cumulative significance of the omissions in the FIR, the identity and status of the sole identifying witness, and the objective discrepancy between the IMEI numbers. The seriousness of dacoity cannot compensate for an evidentiary deficiency in connecting an accused with its commission. The statutory test is one of reasonable grounds, not mere suspicion, however grave the accusation.

13. For the foregoing reasons, this Court is persuaded that the material presently available does not exclude a legitimate need for further inquiry into the alleged participation of the three applicants. Their cases, therefore, attract Section 497(2), Cr.P.C. Consequently, all three applications are allowed, and applicants Abid, Talha Khalid, and Ali Raza are admitted to post-arrest bail, subject to furnishing solvent sureties in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) each, with P.R. bonds in the like amount, to the satisfaction of the learned trial Court. In Talha Khalid's case, compliance with the applicable safeguards of the Juvenile Justice System Act, 2018, shall additionally be ensured.

14. All observations made herein are tentative, confined exclusively to the determination of bail, and shall not prejudice the merits of the trial, which shall be decided independently upon evidence. The applications stand disposed of accordingly.

J U D G E

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