

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3502 of 2025

Applicant : Siddique son of Tayyab, Through:
Mr. Allah Wadhayo Mirani, advocate

The State : The State: Through Ms. Seema Zaidi,
Additional Prosecutor General,
Sindh

Date of hearing : 23.02.2026

Date of Order : 18.03.2026

ORDER

Jan Ali Junejo, J:-- Through this Criminal Bail Application under Section 497 Cr.P.C., the Applicant/Accused seeks his release on bail in FIR No. 188/2025 registered at Police Station Jamshed Quarters, Karachi, for offences under Sections 397/34 PPC. The Applicant's earlier bail application was declined by the learned XIVth Additional District & Sessions Judge, Karachi East vide order dated 01.12.2025 in Sessions Case No. 1817/2025.

2. As per the FIR lodged on 26.03.2025 at about 04:30 a.m., the complainant, Ahmar S/o. Abdul Azeem, reported that at approximately 03:30 a.m., while returning home on his motorcycle and upon reaching near Main Gurumandir Chowk by Kunzul Emaan Masjid, Jahangir Road, Karachi, he was intercepted by three persons on two motorcycles, wearing pant-shirt/shalwar kameez, whose faces were identifiable. One of them, at gunpoint, intimidated the complainant and snatched his mobile phone and fled. A police mobile of P.S. Jamshed Quarters (ASI Muhammad Idrees with staff) arrived contemporaneously; upon the complainant's pointation,

pursuit ensued towards Hascol Pump on Jahangir Road. Two culprits purportedly escaped taking benefit of darkness, while one person on a motorcycle was apprehended after his motorcycle jammed near the footpath. On inquiry he disclosed his name as Siddiq S/o. Tayyab; the two absconding associates were named as Noman S/o. unknown and Asif S/o. unknown. Personal search of the apprehended accused, in presence of the complainant and PC Mazhar Hussain, allegedly yielded one unlicensed 30-bore pistol with two live rounds and an Oppo F21 mobile phone (IMEI particulars noted) stated to be robbed property of another case of P.S. Gulshan-e-Iqbal. The motorcycle allegedly used (Union Star 70, No. KKA-8191) was taken into custody under Section 550 Cr.P.C. The accused was produced at the police station for further proceedings under Sections 397/34 PPC.

3. Learned counsel for the Applicant contends that the Applicant is innocent and has been falsely roped in with mala fide; that no specific overt act of using the weapon or snatching has been attributed to him in a credible manner; that the alleged recovery is foisted and no independent witness from the locality has been associated in violation of Section 103 Cr.P.C.; that investigation stands concluded and challan submitted, hence the Applicant is no longer required for custodial interrogation; that the case is one of further inquiry within the purview of Section 497(2) Cr.P.C., particularly in view of contradictions and doubtful narration in the FIR and the arrest/recovery memos; that mere non-prohibitory clause is not determinative but, in any case, on the Applicant's side

there is no likelihood of absconding or tampering with prosecution witnesses; the Applicant undertakes to furnish solvent surety and abide by any condition imposed. He, therefore, prays for grant of bail.

4. Conversely, learned APG opposes the grant of bail, submitting that the Applicant was apprehended on the spot immediately after the occurrence on the complainant's pointation while fleeing; that from his possession a firearm with live rounds and robbed property of another FIR was recovered in presence of the complainant and a police witness; that the offence under Section 397 PPC is grave, involving use of deadly weapon at the time of robbery, attracting the bar to concession at bail stage as per consistent jurisprudence; that the identification is proximate in time, arrest is prompt, recovery is incriminating, and the role of the Applicant is not ex facie doubtful; that the case does not fall within the ambit of further inquiry; hence, the bail application merits dismissal.

5. I have considered the arguments advanced by learned counsel for the parties and have examined the material available on record. The tentative assessment standard governs at bail stage; deeper appreciation or meticulous dissection of evidence is not warranted. The material presently available includes: (i) prompt lodging of FIR within roughly one hour of occurrence; (ii) immediate pursuit by police upon the complainant's pointation; (iii) arrest of the Applicant at or near the scene shortly after the incident; and (iv) recovery from his person of a 30-bore pistol with live rounds and a mobile phone

allegedly robbed in another case, coupled with seizure of the motorcycle purportedly used in the offence. These factors, taken cumulatively, prima facie connect the Applicant to the occurrence.

6. The core allegation against the Applicant arises under Section 397 PPC read with Section 34 PPC. Section 397 PPC criminalizes robbery or dacoity where the offender uses any deadly weapon at the time of committing the offence. The contents of the FIR assert that one of the malefactors committed the snatching at gunpoint. According to the prosecution's tentative case, a deadly weapon was used during the occurrence, and a weapon was also recovered from the possession of the Applicant at the spot. At this stage, the Court is not to resolve whether the precise user of the weapon was the Applicant or an associate; common intention under Section 34 PPC is invoked, and the immediate apprehension with recovery of a firearm sufficiently raises a tentative presumption of participation in a weapon-enabled robbery. Reliance is placed on the case of *Khaista Meer and another v. The State (2013 P.Cr.L.J. 474)*, wherein, this Court observed as follows: *"Word 'use' mentioned in section 397, P.P.C. could not be given a restricted meaning where the accused was armed with a weapon and threatened victims, it would come within the definition of 'use of weapons', which in fact would make it easier for the accused or other culprits to perform the action which they intended"*. In my considered view, the material collected during the course of investigation, prima facie, connects the Applicant with the commission of the offence punishable under Section 397, P.P.C.

7. The defense plea that no independent witness of locality was joined, invoking Section 103 Cr.P.C., does not, at this stage, render the prosecution story inherently doubtful. The occurrence was at 03:30 a.m. on a thoroughfare; police action appears to be on immediate chase. Non-association of passersby at odd hours, while a relevant consideration at trial, is not per se fatal at bail stage, particularly where the complainant himself is a witness to the chase and arrest, and the recovery is contemporaneous.

8. The contention that the recovery is foisted is a matter for trial. Presently, the recovery is supported by seizure memos said to bear the signatures of the complainant and a police constable; the items recovered include a firearm with ammunition and a mobile phone allegedly traceable to another robbery case. Such recoveries, if ultimately proved, would be of incriminating character. Conversely, to discard them tentatively would amount to premature evaluation.

9. As regards the argument concerning the prohibitory clause, it is correct that the mere fact that an offence falls within or outside the prohibitory limb of Section 497(1), Cr.P.C., does not by itself conclusively determine the question of bail. The Supreme Court has held, inter alia in *Shamil Ahmed v. The State (2009 SCMR 174)* and *Afzal Ahmed v. The State (2003 SCMR 573)*, that grant of bail in non-prohibitory cases is not automatic; judicial discretion is to be exercised on the totality of circumstances. In the present matter, even on a tentative yardstick, the immediacy of arrest on pointation, coupled with weapon and property recovery, the time and place of occurrence, and the nature of accusation under Section 397 PPC,

militate against the grant of bail. The plea that the case calls for further inquiry under Section 497(2) Cr.P.C. has been examined. At this preliminary stage, the available material does not point to inconsistencies so fundamental as to render the Applicant's nexus doubtful. That chain is adequate, for now, to exclude the application of the further inquiry clause.

10. For the foregoing reasons, and without delving deeper into the evidence, this Criminal Bail Application filed on behalf of the Applicant, being bereft of merit, is hereby dismissed. It is, however, observed that the findings recorded herein are tentative in nature, made solely for the purpose of deciding the present bail application, and shall not prejudice the case of either party during the course of trial.

JUDGE