THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 3005 of 2026
a/w
Criminal Bail Application No. 2750 of 2026

Applicant [in Cr. B.A No.3005/2026]	:	Ismail Son of Noor ul Haq
Applicants [in Cr. B.A No.2750/2026]	:	Syed Badar Khan S/o. Umer Sardar Both applicants through Mr. Allahwasayo Metlo, advocate
Complainant [in both Cr. B.A]	:	Ayan son of Rana Saleem Through Mr. Tariq Hussain Arain, advocate
The State	:	Through Mr. Sharafuddin Kanhar Assistant Prosecution General, Sindh.
Date of hearing	:	19.10.2026.
Date of Order	:	19.10.2026.

O R D E R

Jan Ali Junejo, J.- By this common order, I intend to decide the above captioned bail applications, as they arise out of same incident

2. Applicant Ismail son of Noor ul Haq [**in Cr. B.A No.3005/2026**] seeks post arrest bail in FIR No.151/2026, registered at Police Station Gulbahar, Karachi for the offences punishable under Sections 392/397/365/34 PPC. The applicant has approached this Court being aggrieved by the order dated 09.09.2026 passed by the learned Additional Sessions Judge-II, Karachi Central whereby his bail applications was declined.

3. Applicant Syed Badar Khan son of Umer Sardar [**in Cr. B.A No.2750/2026**], seeks pre-arrest bail in FIR No.151/2026 registered at Police Station Gulbahar, Karachi for the offences punishable under Sections 392/397/365/34 PPC, calling in question the order dated 24.08.2026 passed by the learned Additional Sessions Judge-II, Karachi

Central, whereby his pre-arrest bail application was dismissed. The Applicant was granted ad-interim pre-arrest bail by this Court vide Order dated: 28.08.2026.

4. The prosecution case as set out in FIR No.151 of 2026 is that on 09.05.2026 at about 2000 hours the complainant Ayan S/o Rana Saleem, reported at Police Station Gulbahar that he was working as an administrator at Rana Steel, situated in the National SITE Area, Karachi. He stated that on the day of the incident, he, alongwith his employee Talha and driver Ismail S/o Noor ul Haq, was transporting 5 tons and 500 kilograms of copper wire in a white Mazda truck bearing Registration No. JZ-6945, Engine No. 510267 and Chassis No. 304326 towards a Karkana situated at Nazimabad, Phase-II, Inner Road, when a white Suzuki Alto bearing Registration No. 6525 intercepted their truck. Thereafter, three persons alighted from the said car, two of whom were masked, whereas the third was unmasked. They allegedly forcibly bundled the driver and cleaner into their car and abducted them, while the third accused drove away the Mazda truck loaded with the copper wire. Subsequently, the abducted persons were released by the culprits, whereafter the instant FIR was registered.

5. Learned counsel for the applicant in Cr. Bail Application No.3005 of 2026 submits that the applicant is innocent and has been falsely implicated in the present case, as no specific role has been attributed to him in the FIR, which was initially registered against unknown persons. He submits that, according to the prosecution's own version, the applicant, who was driving the vehicle, was himself stopped, threatened and beaten at gunpoint by three armed persons, abducted along with Talha Mehmood, and subsequently thrown out of the vehicle, while the culprits forcibly took away his pickup truck along with the alleged stolen copper wire. He argues that these circumstances demonstrate that the applicant was himself a victim of the occurrence rather than an associate of the alleged dacoits. He further submits that Talha Mehmood, being a material witness who was present throughout the occurrence and was allegedly abducted along with the applicant, has not attributed any incriminating role to the applicant, whereas his statement has not been properly brought on record during the investigation. According to learned counsel, the prosecution's

own version that the applicant was beaten, threatened and abducted is wholly inconsistent with the allegation of his association with the alleged culprits. He further contends that the applicant's pickup truck, allegedly worth approximately Rs.1 crore and constituting his source of livelihood, was forcibly taken away during the occurrence and was subsequently recovered in an unclaimed condition within the jurisdiction of Police Station Ittehad Town on 13.05.2026, four days after the incident. He argues that it is highly improbable that the applicant would risk his own valuable vehicle and source of income for an alleged share in approximately 5,500 kilograms of copper wire, valued at around Rs.2 crore and allegedly distributed amongst several accused persons. Learned counsel further submits that no identification parade was conducted to establish the applicant's identity or connect him with the occurrence, nor does the available call detail record disclose any contact between the applicant and the alleged co-accused on the date of the incident. He maintains that the alleged recovery of approximately 700 kilograms of copper wire from the applicant is highly doubtful, as no recovery was effected from his possession and the photographs relied upon by the prosecution do not show his presence at the alleged place of recovery or otherwise connect him with the recovered property. He further argues that the arrest memo and challan do not disclose any specific incriminating material establishing the applicant's participation in the alleged dacoity, and that the essential ingredients of Sections 395 and 397 PPC are not prima facie attracted to his case, particularly when no weapon was recovered from him or any specific act involving the use of a deadly weapon attributed to him. Learned counsel also submits that co-accused Rashid son of Mohammad Arib has already been granted bail and that the applicant is entitled to the concession of bail on the principle of consistency. He contends that the investigation has been completed, the applicant has remained behind bars for approximately four months, and his continued incarceration would amount to premature punishment, particularly when the available material does not establish his direct involvement in the alleged offence. In support of his submissions, learned counsel relies upon the judgment reported as 1991 PCr.L.J. 1216 and argues that the circumstances of the case, at the very least, call for further inquiry within the meaning of Section 497(2) Cr.P.C. Lastly, he submits that the applicant is a permanent resident of Karachi, has deep roots in society, undertakes to attend the trial regularly and not to tamper with the prosecution

evidence, and is ready to furnish solvent surety to the satisfaction of the Court; therefore, he prays that the applicant be admitted to bail.

6. Learned counsel for the applicant in Cr. Bail Application No.2750 of 2026 submits that the applicant is innocent and has been falsely implicated in the present case, as his name does not appear in the FIR and no specific role has been attributed to him in the alleged occurrence. He submits that, according to the FIR, three unknown persons allegedly committed the offence of dacoity, whereas the applicant was neither named nor identified by the complainant or any eyewitness at the time of registration of the FIR. He further contends that Talha Mehmood, an employee of the concerned company, was admittedly present at the place of occurrence, witnessed the entire incident and provided information to the complainant; however, no identification parade has been conducted to identify the actual culprits, despite the arrest of several accused persons in connection with the case. He argues that nine accused persons were allegedly arrested and remained in police custody for more than fifteen days, yet none was identified by the said material witness. Learned counsel further submits that no CCTV footage of the place of occurrence or its surroundings, including any Safe City camera footage, has been collected, despite the alleged incident having occurred on a main road. He maintains that the applicability of Section 397 PPC is doubtful, as the prosecution has not established that the applicant personally used a deadly weapon during the alleged occurrence, nor has any crime weapon been recovered from his possession. He argues that the allegations, at best, require examination under the relevant provisions relating to robbery, and that the question of the applicability of the prohibitory clause of Section 497 Cr.P.C. may be considered in light of the principles discussed in the judgment reported as 2019 YLR 677. He further argues that no recovery has been effected from the applicant in the present case and that the photographs relied upon by the prosecution do not disclose the date and time of the alleged CCTV footage or otherwise establish the applicant's presence at the alleged place of recovery, thereby rendering the alleged recovery doubtful and requiring further inquiry. He also submits that the available call detail record does not disclose any contact between the applicant and the alleged co-accused on the date of occurrence, while the arrest memo and challan do not disclose any specific incriminating material connecting the applicant with the commission of the alleged

offence. According to learned counsel, the prosecution case is based on suspicion and assumptions, without any direct, independent or reliable evidence establishing the applicant's participation in the alleged dacoity. He further contends that the investigation has been completed and the applicant is no longer required for any further investigation. He points out that co-accused Rashid son of Mohammad Arib has already been granted bail and submits that the applicant is also entitled to the concession of bail on the principle of consistency, subject to the facts and circumstances of his case, hence, he prays that the pre-arrest bail be confirmed.

7. Conversely, learned Additional Prosecutor General assisted by the learned counsel for the complainant vehemently opposed the grant of bail and submitted that the offence involves robbery at gunpoint which is a serious offence affecting the society at large. Learned State counsel further submitted that sufficient material is available connecting them with the commission of the alleged offence. They finally prayed for dismissal of the bail application.

8. I have heard the learned counsel for the applicants, learned Additional Prosecutor General, assisted by learned counsel for the complainant, and have carefully examined the material available on record.

9. The allegations leveled in the FIR are undoubtedly serious; however, at the stage of deciding bail, the Court is required to tentatively assess the available material to determine whether reasonable grounds exist for believing that the applicants committed the alleged offences or whether their cases call for further inquiry. In the present case, the FIR was initially registered against unknown persons, and no specific role was attributed therein to either applicant. The prosecution story, as narrated in the FIR, indicates that three persons allegedly intercepted the vehicle carrying copper wire, abducted the driver and cleaner, and drove away the loaded truck. However, the material presently available does not satisfactorily establish the specific participation of either applicant in the alleged occurrence. The contention of learned counsel for applicant Ismail that he was himself subjected to threats and violence, abducted along with Talha Mehmood, and deprived of his vehicle, raises a question requiring deeper examination in light of the prosecution's own version. Likewise,

the contention that applicant Syed Badar Khan was not nominated in the FIR and that no identification parade was conducted to establish his identity as one of the perpetrators also calls for consideration. The absence of an identification parade, particularly where the accused were initially unknown, assumes relevance in assessing the strength of the prosecution case at this stage.

9. Furthermore, the alleged recovery of approximately 700 kilograms of copper wire, stated to have been effected in connection with a separate FIR registered at Police Station Ittehad Town, requires independent assessment in accordance with law. At this stage, the material placed before this Court does not conclusively establish the applicants' connection with the alleged recovery in a manner sufficient to resolve the question of their guilt. The objections raised by learned counsel regarding the photographs relied upon by the prosecution, the absence of identifiable date and time particulars, and the lack of other independent material connecting the applicants with the alleged recovery are matters requiring further examination. Similarly, the contention that no call detail record establishes contact between the applicants and the alleged co-accused on the date of occurrence lends support to the plea that their specific roles require further inquiry. The prosecution has also not satisfactorily explained, at this tentative stage, the absence of identification of the alleged perpetrators by Talha Mehmood, who is stated to be an eyewitness to the occurrence. Nevertheless, these observations are confined to the assessment of the material for purposes of bail and shall not be construed as a final determination of the evidentiary value of any particular circumstance.

10. As regards the applicability of Sections 392 and 397 PPC, the mere allegation that the occurrence involved armed persons does not, by itself, establish that either applicant personally used a deadly weapon or committed an act attracting the enhanced punishment contemplated under Section 397 PPC. The individual role of each applicant and the applicability of the penal provisions invoked against him are matters to be determined on the basis of evidence. The absence of any specific attribution concerning the use of a deadly weapon by either applicant, coupled with the other circumstances discussed above, raises a question requiring further inquiry.

11. It is also relevant that the investigation has been completed, as contended by learned counsel for the applicants, and no specific material has been pointed out at this stage demonstrating that their further custody is necessary for any particular investigative purpose. The fact that co-accused Rashid son of Mohammad Arib has already been granted bail is another circumstance to be considered, subject to the principle of consistency and the respective roles attributed to the accused persons. The rule of consistency, however, cannot operate mechanically and must be applied after examining the circumstances of each accused. Having considered the tentative nature of the available evidence, the absence of a clear and specific attribution against the applicants in the FIR, the questions surrounding their identification and alleged connection with the occurrence, and the other circumstances discussed hereinabove, I am of the view that the case of each applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C. The principles governing the grant of bail, including those relating to the prohibitory clause of Section 497 Cr.P.C., must be applied in the light of the offences legally attracted on the material available and the role attributed to each applicant.

12. Consequently, both bail applications are allowed. Applicant Ismail son of Noor ul Haq [**Criminal Bail Application No. 3005/2026**] is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. Likewise, the interim pre-arrest bail granted to applicant Syed Badar Khan son of Umer Sardar [**Criminal Bail Application No. 2750/2026**] vide order dated 28.08.2026, is hereby confirmed subject to enhancement of the surety amount from Rs.50,000/- to Rs.100,000/- (Rupees One Hundred Thousand only) and furnishing a P.R. bond in the like amount to the satisfaction of the Nazir of this Court. Both applicants shall attend the proceedings before the learned trial Court on each and every date of hearing, shall not tamper with the prosecution evidence or influence any witness, and shall comply with all lawful directions issued by the learned trial Court. Any violation of these conditions may entail appropriate action, including cancellation of bail, in accordance with law.

13. Needless to observe that the findings recorded hereinabove are tentative in nature and shall not prejudice either party during the trial.

The learned trial Court shall independently assess the evidence brought on record and decide the case strictly in accordance with law, uninfluenced by any observation made in this order.

JUDGE