

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-946 of 2026

Applicant: Nadeem son of Ghulam Rasool Babbar and Wali Muhammad son of Malook Jhakro, through Mr. Ejaz A. Awan, Advocate.

Respondent: The State through Mr. Altaf Hussain Khokhar, District Prosecutor General, Sindh.

Date of hearing: **24.08.2026**

Date of Order: **24.08.2026**

O R D E R

RIAZAT ALI SAHAR, J:- Through this criminal bail application, the applicants/accused above-named seek post-arrest bail in Crime No. 07/2026 registered at PS Wildlife Station Kotri, for offence u/s 9(1), (c),(d), 12(1), 76, SWPP&M Act, 2020 under Sindh High Court Order in C.P. No. D-3287 of 2022, dated 30.09.2024, SWPP Act 2020, Rule 56(2), 57(6), 23(1) (a) Sindh Arms Act 2013. Their earlier application for post-arrest bail was dismissed by the learned Additional Sessions Judge-II, Jamshoro, vide order dated 7th July 2026.

2. Briefly stated, the prosecution case as set out in the FIR is that the complainant, a Game Inspector of the Sindh Wildlife Department, intercepted multiple Suzuki/transport vehicles driven/operated by the respective applicants near Police Post Nooriabad. It is alleged that the vehicles were loaded with newly cut timber allegedly sourced from the Khirthar National Park/range area without possessing any valid legal permit or transit authorization, in violation of environmental laws and High Court directives. Consequently, the vehicles and machinery were seized, and the present case was registered.

3. Learned counsel for the applicants contends that the applicants are innocent and have been falsely implicated due to mala fides; that the

applicants are professional drivers or operators who were merely engaged in transporting goods on hire/rent in the ordinary course of livelihood; that no cutting instruments, specific inventories, or exact quantities of wood/trees were recovered from the personal possession of the individual applicants; that the FIR suffers from unexplained delay and lacks essential specifications regarding the exact number of trees or location of felling; that the alleged interception took place in a public/populated zone without associating independent private mashirs, violating Section 103 Cr.P.C.; that the penal sections invoked do not fall within the prohibitory clause of Section 497 Cr.P.C.; and that investigation is complete, leaving no justification for their continued incarceration.

4. Conversely, learned Deputy Prosecutor General for the State vehemently opposed the grant of bail, arguing that the applicants were apprehended red-handed transporting unauthorized timber from the ecologically sensitive Khirthar Mountain Range/National Park in blatant disregard of environmental safeguards and High Court orders.

5. I have heard the learned counsel for the parties, reviewed the record, and examined the legal framework applicable to the case.

6. A tentative assessment of the material on record reveals that the applicants are primarily engaged as commercial drivers, operators, or vehicle owners carrying loads on hire. The FIR lacks specific attribution of direct tree-felling to individual applicants, nor are precise inventories, measurements, or immediate cutting implements recovered directly from their persons in a manner that conclusively establishes mens rea at this preliminary stage. Whether the timber was unlawfully extracted from the protected limits of the Khirthar National Park by these specific applicants or whether they were merely third-party transporters unaware of the cargo's precise origin are matters requiring deeper inquiry during trial under sub-section (2) of Section 497 Cr.P.C.

7. Furthermore, Section 9(1)(c) of the penal provisions invoked under the Sindh Wildlife Protection Act, 2020 is punishable with imprisonment up to six months with fine and is bailable one. While Section 9(1)(d) carries punishment up to five years with fine. It is important to note that sections 31 and 32(b) of the said act which procedural/police powers and do not prescribe punishment. Whereas, section 76 provides that where a person commits an act prohibited under the Forest Act, 1927 in a protected area, he

is deemed an offender under the Wildlife Act and the penalties under the Forest Act apply *mutatis mutandis* which too carries six months punishment or fine, or both, therefore, sections so applied do not cross the threshold of the prohibitory clause of Section 497 Cr.P.C. It is a well-entrenched principle of criminal jurisprudence, reiterated by the Honorable Supreme Court of Pakistan in **Tariq Bashir v. The State (PLD 1995 SC 34)** and **Muhammad Tanveer v. The State (PLD 2017 SC 733)**, that for offences falling outside the prohibitory clause, the grant of bail is the norm and refusal constitutes an exception.

8. Reliance is also placed on **Muhammad Shakil v. The State (PLD 2014 SC 458)**, wherein it was underscored that where an accused person's role is confined to transportation without direct nexus to the primary offence of extraction or harvesting, the question of active participation and conscious guilt warrants a thorough appraisal of evidence at trial. Additionally, the admitted absence of independent private mashirs from the locality during the transit interception, despite being a populated thoroughfare, raises lingering doubts regarding the recovery proceedings under Section 103 Cr.P.C.

9. The investigation qua the applicants is finalized, the vehicles and cargo are already secured in custody, and their further detention would serve no penal or investigative utility.

10. Resultantly, the instant bail application is **allowed**. Consequently, applicants **Nadeem and Wali Muhammad** are admitted to post-arrest bail, subject to furnishing solvent surety in the sum of **Rs.50,000/-each** and PR bond in the like amount to the satisfaction of the learned trial Court.

11. Needless to mention, the observations recorded herein are strictly tentative and shall not prejudice or influence the mind of the learned trial Court during the adjudication of the main case on its merits.

JUDGE