

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Application No. S-269 of 2026

Applicant	:	Through M/s. Farooque H. Naek & Abdul Razzaque Kalwar son of Lal Bux Kalwar
The State	:	Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh along with Inspector Shahid Bashir, I.O of the case
Date of Hearing	:	04-09-2026
Date of Order	:	04-09-2026

ORDER

Riazat Ali Sahar, J.—Through the instant bail application, applicant Abdul Razzaque Kalwar son of Lal Bux Kalwar seeks post-arrest bail in Crime No.04 of 2022, registered at Police Station ACE, Kashmore-Kandhkot, for offences punishable under Sections 161 and 409 PPC read with Section 5(2) of the Prevention of Corruption Act, 1947.

2. Briefly stated, the prosecution case, as set out in the FIR, is that during crop year 2020-21, the applicant, while posted as Food Supervisor/Incharge PRC Kashmore, allegedly misappropriated 61,766 wheat bags and 123,532 bags of bardana, thereby causing an alleged loss of Rs.35,55,14,769/- to the Government. The FIR was registered following a raid conducted at PRC Kashmore on 11.03.2022. The allegations and the alleged loss have already been noticed in the earlier proceedings before the learned trial Court.

3. It is, inter alia, contended by the learned counsel for the applicant that during the first round of proceedings, the bail application of the applicant was declined up to the level of this Court. Subsequently, the applicant approached the Honourable Supreme Court of Pakistan, where the matter was not pressed and he was permitted to agitate his case before the learned trial Court afresh

on a new ground. Thereafter, the applicant filed an application under Section 497 Cr.P.C., on the ground of statutory delay/hardship. The said application was declined by the learned trial Court as well as by this Court in Criminal Bail Application No.291 of 2025 vide order dated 22.07.2025, inter alia, on the ground that delay on the part of prosecution had not been established with regard to the requisite statutory period and that the application was premature.

4. Learned counsel further submitted that subsequently the applicant approached the Honourable Surpeme Court and sought order that his bail application be decided on a fresh ground by the learned trial Court by filing a separate application on the sole ground of statutory delay/hardship, but the same was also declined vide order dated 20.05.2026. Hence, the instant application has been filed on the sole ground of statutory delay/hardship. Learned counsel has pointed out that the applicant/accused has remained in custody with effect from 13.05.2025 for more than one year and, despite the passage of the requisite statutory period, the trial has not been concluded due to non-availability of the Presiding Officer and the Court was lying vacant w.e.f. 11.06.2025 to 10.03.2026.

5. It is submitted that the Court of Anti-Corruption (Provincial), Larkana, is a Special Court and its Presiding Officer is required to be appointed by the Government of Sindh. In the absence of a duly appointed Presiding Officer, the In-charge Judge could not lawfully record evidence or otherwise proceed with the trial in the matter. Consequently, the charge could be framed only after the appointment of the new Presiding Officer. Learned counsel contended that the period consumed on account of the non-availability of a duly appointed Presiding Officer cannot be attributed to the applicant/accused, nor can such delay be construed as having been occasioned by any act or omission on his part.

6. Learned counsel further submitted that on 18.05.2026, the documents were supplied to the applicant/accused and the charge was framed on 01.06.2026. It is further pointed out that thereafter the applicant remained present before the learned trial Court, including on 15.06.2026 and 01.07.2026, but no prosecution witnesses were in attendance. Learned counsel, therefore,

contended that the delay in conclusion of the trial is not attributable to the applicant and that, in the circumstances, the applicant has acquired the statutory right to bail under the applicable proviso to Section 497 Cr.P.C.

7. Conversely, learned Deputy Prosecutor General, Sindh, did not oppose the grant of bail in view of the aforesaid circumstances and has recorded no objection to the grant of bail on the basis of established ground of statutory delay/hardship.

8. I have heard learned counsel for the parties and perused the available record.

9. It is an admitted position that the applicant was taken into custody on 13.05.2025 after dismissal of his pre-arrest bail application by the learned trial Court. His post-arrest bail application was thereafter dismissed by the learned trial Court vide order dated 29.05.2025. Subsequently, his application based upon the ground of delay/hardship was dismissed by the learned trial Court vide order dated 20.05.2026.

10. It is also apparent from the record that the applicant has remained in custody since 13.05.2025 and the trial has not yet concluded. The plea now pressed before me is confined to the statutory delay/hardship in conclusion of the trial. The earlier bail application based upon statutory delay was considered at a stage when the requisite statutory period had not matured and was dismissed as premature, inter alia, on the ground that delay on the part of the prosecution had not been established with regard to the requisite period. The present application, however, is founded upon subsequent developments, namely, the expiry of the prescribed period while the applicant continues to remain in custody and the trial remains unconcluded. Therefore, the present application cannot be treated as a mere repetition of the earlier plea.

11. Record reveals that on 18.05.2026, the documents were supplied to the applicant/accused and the charge was framed on 01.06.2026. The Court of Anti-Corruption (Provincial), Larkana, is a Special Court and its Presiding Officer is required to be appointed by the Government of Sindh. In the absence of a duly appointed Presiding Officer, the In-charge Judge could not lawfully record evidence or otherwise proceed with the trial in the matter.

Consequently, the charge was framed only after the appointment of the new Presiding Officer. The period consumed on account of the non-availability of a duly appointed Presiding Officer, therefore, cannot be attributed to the applicant/accused, nor can such delay be construed as having been occasioned by any act or omission on his part.

12. The material placed before me, particularly the circumstances pointed out by learned counsel regarding the vacancy/non-availability of the duly appointed Presiding Officer and the subsequent non-availability of prosecution witnesses, shows that the delay after the applicant's arrest cannot, at this stage, be attributed to any act or omission on his part. The applicant has remained in custody since 13.05.2025 and, despite the passage of the requisite statutory period, the trial remains unconcluded. In these circumstances, the ground of hardship/statutory delay, as pressed under the second proviso to Section 497 Cr.P.C., has been established. The learned Deputy Prosecutor General, Sindh, has also raised no objection to the grant of bail on the said ground.

13. The second proviso to Section 497(1) Cr.P.C. provides statutory protection to an accused where the trial remains unconcluded for the prescribed period and the delay in conclusion of the trial is not attributable to the accused or any person acting on his behalf. In the present case, keeping in view the period of custody, the circumstances relating to the functioning of the trial Court, the absence of a duly appointed Presiding Officer for the relevant period, and the fact that the prosecution has not been able to show that the subsequent delay was occasioned by the applicant, the statutory benefit claimed by him is attracted.

14. In view of the above circumstances, and particularly in view of the fact that the learned DPG has raised no objection to the grant of bail, I am of the tentative view that the applicant has made out a case for the grant of statutory bail. Consequently, vide a short order dated 04.09.2026, the instant bail application was allowed. Applicant Abdul Razzaque Kalwar son of Lal Bux was admitted to bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and PR bond in the like amount to the satisfaction of the learned trial Court.

15. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party nor influence the learned trial Court while deciding the matter on merits.

These are the reasons of short order dated 04.09.2026.

JUDGE

Zulfiqar