

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-998 of 2025

Applicants: Ali Akbar and Abdul Hakeem through Mr. Shahzad Ahmed Narejo, Advocate.

Complainant: NEMO.

Respondent: The State through Mr. Irfan Ali Talpur, D.P.G along-with SIP Muzaffar Hussain Abro CP Naseem Nagar of PS Qasimabad.

Date of hearing: 02.03.2026

Date of order: 02.03.2026

ORDER

Riazat Ali Sahar, J.- Through the instant bail application filed under Section 497 Cr.P.C., the applicants Ali Akbar and Abdul Hakeem seek post-arrest bail in Crime No.91 of 2025, registered at CP Naseem Nagar, Police Station Qasimabad, Hyderabad, for offences punishable under Sections 397 and 34 P.P.C. Their earlier bail application was dismissed by the learned Model Criminal Trial Court / 1st Additional Sessions Judge, Hyderabad, vide order dated 30.06.2025.

2. Briefly stated, the prosecution case as set out in the FIR is that the applicants, while armed with pistols and riding a 125-cc motorcycle, reached Pumping Station Road, Goth Shahmir Shoro, and allegedly committed robbery of Rs.620,000/-, one purse containing CNIC, and an OPPO mobile phone from the complainant. They also allegedly robbed PW Haider Ali of Rs.20,350/-, one purse containing CNIC, one driving licence, one Meezan Bank ATM card, and one Infinix mobile phone. It is further alleged that upon resistance offered by the complainant, the applicants caused firearm injuries to him; hence the registration of the present crime.

3. Learned counsel for the applicants contended that the applicants were not nominated in the FIR and were subsequently

implicated through a delayed nomination, which creates doubt and requires determination at trial. He further submitted that the complainant did not disclose any description or particulars of the robbed currency notes, nor has any robbed property been recovered from the possession of the applicants. Learned counsel also argued that the FIR was lodged with an unexplained delay of 24 days, while the applicants were arrested after 68 days of the incident, which adversely affects the veracity of the prosecution case. It was further submitted that applicant Ali Akbar is suffering from hernia since 2024 and has already undergone surgery at Sindh Government Hospital, Qasimabad, Hyderabad, yet still requires proper medical treatment. On these grounds, learned counsel prayed for grant of bail.

4. Conversely, learned Deputy Prosecutor General opposed the application and submitted that there was no enmity or ill-will between the prosecution witnesses and the applicants to falsely implicate them. He further argued that the complainant had sustained firearm injuries during the occurrence; therefore, the delay in lodging the FIR would not materially affect the prosecution case. He, therefore, prayed for dismissal of the bail application.

5. I have heard the learned counsel for the parties and have carefully examined the material available on record.

6. Admittedly, the applicants were not nominated in the FIR. Although the complainant claimed that he had seen the culprits at the time of the occurrence and would identify them, he failed to disclose any "huliya" (description) of the accused persons in the FIR. The FIR was lodged with a delay of 24 days without any plausible explanation, despite the police station being located at a distance of approximately three to four kilometers from the place of incident. Furthermore, the record reflects that the applicants were shown to have been arrested on 26.04.2025, whereas the identification parade was conducted on 30.04.2025, after a delay of four days. In such circumstances, the possibility of prior exposure or pre-arrangement cannot be ruled out. Moreover, no empty shells were secured from the

place of incident; therefore, the alleged crime weapons recovered from the applicants cannot be matched with any empty shells to ascertain whether the same were used in the commission of the alleged offence. Such aspects, being part of the chain of evidence, require deeper appreciation during trial. It may further be observed that although Section 397 P.P.C. prescribes a minimum punishment of seven years, the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C. It is by now a settled principle of law that in offences not falling within the prohibitory clause, grant of bail is a rule and refusal is an exception. Reference in this regard may be made to the case of *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) wherein the Hon'ble Supreme Court held that in offences not falling within the prohibitory clause of Section 497 Cr.P.C., bail should ordinarily be granted unless exceptional circumstances are shown. Likewise, in *Muhammad Tanveer v. The State* (2017 SCMR 366) it was held that where the case calls for further inquiry, the accused becomes entitled to the concession of bail under Section 497(2) Cr.P.C. Furthermore, the investigation in the present case has already been completed; therefore the applicants are no longer required by the police for further investigation. At this stage, continued incarceration of the applicants would amount to punishment before conviction, which is neither contemplated by law nor consistent with the settled principles governing the grant of bail.

7. In view of the foregoing circumstances, prima facie the applicants have succeeded in making out a case of further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, the instant bail application was allowed, in terms of my short order dated 02.03.2026. These are the reasons for the same.

8. Before parting with this order, it is clarified that the observations made herein are tentative in nature, and the trial Court shall decide the case strictly on its own merits, without being influenced by any of the observations recorded above.

JUDGE