

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

Criminal Bail Application No.S-99 of 2026

Applicant: Mukesh Kumar son of Timanyoun through Mr. K.B Lutuf Ali Laghari, Advocate.

Complainant: Doctor Chelo Mal through Mr. Muhammad Jamil, Advocate.

Respondent: The State through Mr. Irfan Ali Talpur, D.P.G along-with IO/ASI Muhammad Ali.

Date of hearing: 04.03.2026

Date of order: 04.03.2026

ORDER

Riazat Ali Sahar, J.- Through the instant bail application filed under Section 497 Cr.P.C., the applicant Mukesh Kumar seeks post-arrest bail in Crime No.60 of 2025, registered at Police Station Bula Khan, for offences punishable under Sections 397 and 342 P.P.C. His earlier bail application was declined by the learned Additional Sessions Judge-I, Jamshoro, vide order dated 14.01.2026.

2. Briefly stated, the prosecution case as set out in the FIR is that six individuals, including the present applicant, while duly armed with weapons, allegedly entered the house of the complainant on the night of 27.11.2025 at about 08:15 p.m. and committed dacoity at gunpoint, depriving the complainant of gold and silver ornaments, prize bonds worth Rs.300,000/-, and cash amounting to Rs.1,000,000/-, after wrongfully confining the inhabitants of the house; hence, the registration of the FIR.

3. Learned counsel for the applicant contended that the FIR was lodged with a delay of two days, and even then it was

registered against six unknown persons. Later on, the complainant, through his further statement, implicated the present applicant. He argued that such subsequent implication through a further statement, when the FIR itself does not nominate any accused, carries little legal value and prima facie makes out a case of further inquiry. He further submitted that no identification parade was conducted during the course of investigation, whereas in cases where the FIR is silent regarding the names of the accused, holding an identification parade before a Magistrate becomes essential. In the present case, neither the name nor any "huliya" (physical description) of the accused persons has been mentioned in the FIR, thereby rendering the prosecution version doubtful. Learned counsel further argued that in view of the delay in lodging the FIR, absence of independent witnesses, non-nomination of the applicant in the FIR, delayed and contradictory statements, lack of identification parade, and doubtful recovery proceedings, the case of the applicant squarely falls within the ambit of Section 497(2) Cr.P.C., entitling him to the concession of bail.

4. Conversely, learned Deputy Prosecutor General opposed the application and submitted that there is no enmity or ill-will on the part of the prosecution witnesses against the applicant. He argued that although the complainant did not disclose the name of the culprits in the FIR, after acquiring knowledge he rightly implicated the applicant through his further statement. He further contended that mere delay in lodging the FIR is not fatal to the prosecution case and prayed for dismissal of the instant bail application.

5. Learned counsel appearing for the complainant has extended no objection to the grant of bail to the applicant on the ground that the parties have patched up their differences outside the Court, and the complainant is no longer interested in pursuing the matter.

6. I have heard learned counsel for the parties and have carefully perused the material available on record.

7. Admittedly, the applicant is not named in the FIR. Although the complainant stated that he had seen the culprits at the time of the alleged occurrence as they were with open faces, yet he surprisingly failed to disclose the "huliya" (physical description) of the accused persons, particularly when both parties belong to the same community of a small town. The FIR was lodged with a delay of two days without any plausible explanation, despite the police station being situated at a distance of approximately half a kilometer from the place of occurrence. Furthermore, the applicant was named for the first time in the complainant's further statement under Section 161 Cr.P.C. recorded on 02.12.2025, i.e., three days after lodging of the FIR and five days after the alleged occurrence. The complainant has failed to offer any plausible explanation as to how and from which source he came to know the name of the applicant, particularly when the applicant was not known to him prior to the alleged incident. Such circumstance requires further inquiry. It is a well-settled principle of law that a belated further statement carries little evidentiary value unless supported by independent corroboration, and its evidentiary worth can only be determined after recording of evidence at trial. It is also noted that no identification parade was conducted before a Magistrate during the course of investigation, which was necessary in the circumstances of the present case where the accused persons were not nominated in the FIR. The learned counsel for the complainant has also not objected to the grant of bail. It is settled law that no-objection from the complainant cannot by itself be made the sole ground for granting bail; however, where the name of the accused does not appear in the FIR and he has been implicated subsequently through a delayed further statement without any credible source or supporting material, coupled with the absence of an

identification parade, such circumstances may legitimately be taken into consideration while deciding the question of bail. The case has already been formally challaned, and the applicant is no longer required by the police for further investigation. Although Section 397 P.P.C. prescribes a minimum punishment of seven years, the offence under Section 342 P.P.C. is bailable. It is a settled principle of law that in offences not falling within the prohibitory clause, grant of bail is the rule and refusal is an exception. At this pre-trial stage, continued incarceration of the applicant would amount to punishment before conviction, which is neither contemplated by law nor consistent with the settled principles governing the grant of bail, particularly where the case calls for further inquiry at trial.

8. In view of the foregoing circumstances, prima facie the applicant has succeeded in making out a case of further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, the instant Criminal Bail Application was allowed in terms of my short order dated 04.03.2026. These are the reasons for the same.

9. 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

Muhammad Danish