

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

Criminal Bail Application No.S-243 of 2026

Applicant: Sajjad Son of Ahsan Qureshi through Mr. Aijaz Ali Rajar, Advocate.

Complainant: NEMO.

Respondent: The State through Mr. Irfan Ali Talpur, D.P.G.

Date of hearing: 09.03.2026

Date of order: 09.03.2026

O R D E R

Riazat Ali Sahar, J. Through the instant bail application filed under Section 497 Cr.P.C., the applicant Sajjad seeks post-arrest bail in Crime No.35 of 2026, registered at Police Station Hali Road, Hyderabad, for offence punishable under Sections 457, 380, and 34 PPC. His earlier bail application was dismissed by the learned Additional Sessions Judge-III, Hyderabad vide order dated 23.02.2026.

2. It is alleged that the applicant, along with other co-accused, scaled the wall of the complainant's house on the night of 26.01.2026 at about 0500 hours thereby committed theft of animals from the complainant's cattle pond and then went away, whereupon the present FIR was lodged.

3. Learned counsel for the applicant contends that although the FIR mentions the name of the present applicant Sajjad along with his alleged companion Zeeshan alias Munna, while the third accused is shown as unknown allegedly committed the offence, yet the FIR was lodged with a delay of eight days, which does not appeal to a prudent mind particularly when the place of incident is situated at a distance of only two kilometers from the police station. He further submits that

the alleged occurrence is unseen and unwitnessed, and no eyewitness has been cited who allegedly saw the applicant committing the theft or escaping from the spot. Learned counsel argues that the alleged recovery having been made from an open and accessible place cannot be said to be within the exclusive possession of the applicant, as such, the same is doubtful. It is lastly contended that the complainant has not disclosed the source of information through which he allegedly came to know about the involvement of the applicant, which further makes the nomination doubtful. In these circumstances, learned counsel submits that the case of the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C, particularly when the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

4. Learned Deputy Prosecutor General opposed the grant of bail to the applicant and contended that sufficient material is available on record against him, as he has been nominated in the FIR and the stolen article(s) recovered from his possession in the presence of mashirs. He further submitted that the applicant has not alleged any mala fide on the part of the complainant or the prosecution witnesses for falsely implicating him in the present case. Therefore, according to the learned DPG, the applicant does not deserve the concession of bail and his bail application is liable to be dismissed.

5. Arguments heard; record perused tentatively.

6. It is noted that the complainant admittedly knew the names of the present applicant Sajjad and another co-accused, namely Zeeshan alias Munna, whereas the third accused remained unknown. Despite such prior knowledge, the F.I.R. was lodged after a delay of eight days from the alleged occurrence, without furnishing any plausible or satisfactory explanation for such delay, particularly when the place of occurrence is situated at a distance of merely about two kilometres from the concerned police station and the parties admittedly belong to the same Mohalla. Moreover, the complainant has also failed to explain as to how and from which source he came to know that the present applicant was one of the alleged culprits involved in the

commission of the offence. In these circumstances, the delayed lodging of the F.I.R., coupled with the unexplained nomination of the applicant, prima facie raises a question which requires deeper examination during trial and thus brings the case within the ambit of further inquiry.

7. It is a settled principle of criminal jurisprudence that a belatedly lodged F.I.R., unless independently corroborated by reliable evidence, carries comparatively lesser evidentiary value and its true weight can only be assessed after the recording of evidence during trial. Furthermore, the case has already been formally challaned and the applicant is no longer required by the investigating agency for the purpose of further investigation. Although the alleged offences under Section 380, P.P.C. (theft in a building, tent or vessel) provides punishment extending up to seven years, the same does not fall within the prohibitory clause of Section 497, Cr.P.C. So far as the question of application of section 457 PPC is concerned, the same hinges upon the nature of evidence available to establish whether the alleged theft of the calf was committed within the courtyard of the complainant's house or outside it. This factual determination is essential, as it directly impacts the applicability of the said provision and can only be ascertained after proper recording and appreciation of evidence during trial. It is a well-recognised principle of law that in offences not falling within the prohibitory clause, the grant of bail is the rule and refusal thereof is an exception.

8. At this pre-trial stage, the 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 matter requires deeper appreciation of evidence at trial. The guilt or otherwise of the applicant is yet to be determined through due process of law, and the liberty of a person cannot be curtailed without lawful justification or used as a means of pre-conviction punishment. The applicant has already remained behind bars since the date of his arrest, and his further detention is not likely to serve any useful purpose for the

prosecution nor would it advance the case of the prosecution in any meaningful manner, especially when the allegations levelled in the F.I.R. are yet to be proved during the course of trial.

9. In view of the foregoing, *prima facie*, the applicant succeeded in making out case(s) for further inquiry, as contemplated under Sub-Section (2) of Section 497 of the Code of Criminal Procedure (Cr.P.C.). Consequently, the instant Criminal Bail Application was allowed in terms of my short order dated 09.03.2026. These are the reasons for the same.

10. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature, therefore, the trial Court shall not be influenced in any manner whatsoever.

JUDGE

Muhammad Danish