

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

Criminal Miscellaneous Application No.S-26 of 2026

Applicant: Allah Ditto @ Ali Raza *through* Mr. Mazhar Ali Laghari, Advocate.

Complainant: Abdul Aziz along-with victim Azhar Ali in person.

Official Respondents: Through Mr. Irfan Ali Talpur, Deputy Prosecutor General, Sindh.

Date of hearing: 18.03.2026

Date of decision: 18.03.2026

**O R D E R**

**RIAZAT ALI SAHAR, J.-** Through this Criminal Miscellaneous Application filed under Section 561-A Cr.P.C., the applicant has assailed the summary order dated 08.10.2025 passed by the learned II<sup>nd</sup> Additional Sessions Judge, Badin, whereby he was impleaded as an accused to face trial in Crime No. 34 of 2025 registered at Police Station Rajo Khanani under Sections 337, 337-A(i) and 34, P.P.C. The F.I.R. was lodged by the complainant/private respondent Abdul Aziz, wherein the present applicant was nominated along with co-accused.

2. Learned counsel for the applicant contended that during the course of investigation, the applicant was found innocent and was released under Section 169 Cr.P.C. He further argued that the learned trial Court passed a non-speaking order while taking cognizance against the applicant and failed to assign cogent reasons; therefore, the impugned order is illegal and liable to be set aside.

3. Conversely, learned Deputy Prosecutor General, assisted by the complainant and the victim, opposed the application and contended that the applicant was specifically nominated in the F.I.R. with an active role. It was further argued that the Investigating Officer exceeded his authority by releasing the applicant under Section 169 Cr.P.C. on the basis of a plea of alibi, which, according to settled law, is a matter to be adjudicated upon by the trial Court after recording evidence and not by the Investigating Officer.

4. I have heard the learned counsel for the parties and have carefully perused the record.

5. A perusal of the record, including the impugned order, reflects that the learned trial Court has duly considered the material collected during investigation, which prima facie connects the applicant with the commission of the offence. Such material cannot be brushed aside merely on the basis of a defence plea raised during investigation.

6. It is a settled principle of law that an Investigating Officer is not competent to finally determine the veracity of a plea of alibi, as such determination involves appreciation of evidence, which squarely falls within the exclusive domain of the trial Court.

7. Release under Section 169 Cr.P.C. is permissible only when there is no reasonable ground to justify forwarding the accused for trial. However, where incriminating material exists, the Investigating Officer cannot assume the role of a trial Court by preferring one set of evidence over another.

8. In the present case, the Investigating Officer appears to have primarily relied upon the statements of two individuals, namely Muhammad Siddique and Muhammad Ayoub Pathan, who asserted that the applicant was present with them at the relevant time. Such a plea of alibi requires strict proof and cannot be conclusively determined during investigation. The innocence or guilt of the applicant/accused would be determined after recording evidence during course of trial, therefore, instant petition is at pre-mature stage.

9. No material illegality or jurisdictional defect has been pointed out in the impugned order. The learned trial Court has exercised its jurisdiction judiciously and in accordance with settled principles of law.

10. For the foregoing reasons, the impugned order does not suffer from any illegality, infirmity, or jurisdictional error warranting interference by this Court in exercise of its inherent jurisdiction under Section 561-A Cr.P.C. Consequently, this Criminal Miscellaneous Application, being devoid of merit, was dismissed vide short order dated 18.03.2026. These are the reasons thereof.

11. It is clarified that the observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

12. The Trial Court is directed to conclude trial and pass appropriate Judgment in accordance with law within a period of three (03) months under the intimation to this Court through its learned Additional Registrar.

**JUDGE**

Muhammad Danish