

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No. 996 of 2026**

Applicant : Waqas  
son of Abdul Wahid  
Through Mr. Saifullah Abbasi,  
advocate

Complainant : Muhammad Altaf  
son of Abdullah  
Through: Nemo

The State : The State:  
Through Ms. Sharafuddin Kanhar,  
A. P. G. Sindh a/w SI-Waheed Aftab  
of PS Sahil

Date of hearing : 19.05.2026.

Date of Order : 19.05.2026.

### **ORDER**

**Jan Ali Junejo, J:**-- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant Waqas son of Abdul Wahid, who seeks his release on bail in connection with FIR No.263 of 2024 registered at Police Station Sahil, Karachi for the offences punishable under Sections 397/34 PPC R/w Section 216-A PPC. The applicant has approached this Court being aggrieved by the order dated 16.03.2025 passed by the learned Additional Sessions Judge-II, Karachi South whereby his third bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that on 27.12.2024 at about 1745 hours, the complainant's wife went to the market for personal errands, travelling in her vehicle. Upon reaching near House No.201/1, Street No.42, Khayaban-e-Qasim, Phase-VI, DHA, Karachi, she parked her car. At that moment two young man dressed in pants and shirts and appearing to be Urdu speaking, approached her. They forcibly snatched two gold bangles weighing

approximately 4 tolas and valued at about 10 to 12 lac rupees. The men threatened her with a pistol, harassed her and then filed the scene, hence this FIR.

3. Learned counsel for the applicant contends that the present applicant/accused is absolutely innocent and has falsely been implicated in the instant case. He submits that the applicant was arrested on 06.01.2025, whereas charge was framed on 27.01.2026, but despite lapse of more than fourteen months, the prosecution, though having cited nine witnesses in the calendar of witnesses, has miserably failed to examine even a single witness before the trial Court without any fault or delaying tactics on the part of the applicant. He further argues that the object and purpose of the third proviso to Section 497(1), Cr.P.C. is to ensure expeditious conclusion of trial and to prevent indefinite pre-conviction detention of an accused. He maintains that nothing is available on record to demonstrate any design, pattern, or concrete effort on the part of the applicant to delay the proceedings, and it is a settled principle of law that no person can be incarcerated for an unlimited period without conclusion of trial and that every accused is presumed innocent unless proven guilty. Learned counsel further submits that the applicant is neither previously convicted nor a hardened, desperate, or dangerous criminal and is also suffering from tuberculosis (TB), which fact is evident from the medical report submitted by the Medical Officer of Malir Jail. He next contends that the co-accused in the present crime has already been granted bail; therefore, the applicant is also entitled to the concession of bail on the rule of consistency. He further argues that neither any incriminating article nor any case property has been recovered from the exclusive possession of the applicant and no specific role, hulia, or description has been attributed to him in the FIR. According to learned counsel, the complainant himself is not an eyewitness of the alleged incident and has not seen the face of the applicant, which creates serious doubt in the prosecution story and renders the matter one of further

inquiry. He also submits that as per contents of the FIR, neither the complainant nor any passerby sustained any injury during the alleged incident; therefore, Section 397 PPC is not attracted in the present case. Lastly, he contends that there is no direct or indirect evidence available with the prosecution connecting the applicant with the alleged offence, the applicant is the sole breadwinner of his family, who are suffering immense hardship due to his continued detention, and he is ready to furnish solvent surety to the satisfaction of this Hon'ble Court.

4. Conversely, the learned APG opposes the bail application. He submits that the applicant is involved in a heinous offence and from his possession robbed gold bangles of the complainant's wife has been recovered; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the concession of bail.

5. This Court has given anxious consideration to the submissions advanced on behalf of the parties and has examined the record with utmost care. On a tentative assessment of the material available on record, it appears that the alleged F.I.R. was lodged by the complainant on 28.12.2024 at 1200 hours regarding the robbery of gold bangles. The applicant was arrested on 06.01.2025, and robbed gold bangles was allegedly recovered from his possession. The applicant was also identified by the complainant's wife, against whom no previous enmity has been alleged. The prosecution witnesses, in their statements recorded under Section 161 Cr.P.C., have fully implicated the applicant in the commission of the alleged offence. The plea of the applicant regarding his false implication on account of mala fide on the part of complainant's wife is a defence plea which cannot be conclusively examined at this stage without deeper appreciation of evidence, as the same falls beyond the scope of tentative assessment.

6. The contention of the learned counsel for the applicant that the applicant is entitled to the concession of bail on the ground of consistency, as co-accused Kamran and Jibran Yaseen have already been granted bail, is misconceived. It is trite law that the rule of consistency is applicable only when one person's case is at par with the accused whose post-arrest bail has been granted. In the instant case, the role attributed to co-accused Kamran and Jibran Yaseen are clearly distinguishable from that assigned to the present applicant. Furthermore, the nature and extent of the incriminating material collected against the applicant is materially different from that gathered against co-accused Kamran and Jibran Yaseen. As such, the case of the applicant is not at par with that of the co-accused.

7. The rule of consistency was explained by Hon'ble Apex Court in the case of Muhammad Atif v. The State (2024 SCMR 1071) in the following words:

"7. The rule of consistency in bail matters is attracted and applied after the grant of bail to a co-accused. Grant of bail by a court considers several factors like the contents of the FIR, the incriminating material collected by the police during investigation, the past history of the accused, etc. The grounds which form the basis for the grant of bail to a co-accused is thus the benchmark for grant of bail to the accused under the rule of consistency. Therefore, the court has to assess whether the role of the accused in the FIR, examined in the background of the material collected by the Police is the same as that of the co-accused, who has been granted bail. It is this congruence in the case of the co-accused and the accused that attracts the rule of consistency."

In light of the foregoing principles, and having found that the applicant's role and the supporting material against him is not identical to those of co-accused, the rule of consistency is not attracted in the present case. Accordingly, this contention of the learned counsel for the applicant fails.

8. Furthermore, so far as the plea of bail on medical grounds is concerned, a perusal of the medical record reveals that the present

applicant is suffering Pulmonary Tuberculosis (T.B) and has been shifted to the TB Ward, District Prison and Correctional Facility, District Malir for proper examination and treatment. The medical board has also been regularly monitoring his health condition. The medical report reveals that the applicant was declared vitally stable. It is a settled principle of law that bail on medical grounds is not to be granted as a matter of course. Strong and exceptional reasons must exist to believe that, despite the availability of modern medical facilities, life-saving drugs, and advanced treatment, the continued detention of an accused would be hazardous to his life. The medical opinion must be explicit and unambiguous to establish that adequate treatment is not available and that further incarceration would endanger the life of the accused. In the present case, the applicant has failed to bring his case within the ambit of the aforementioned principle. The medical record does not suggest that his ailment is of such a nature that it cannot be adequately managed within the jail or at government-run specialized hospitals. Rather, the record demonstrates that he has been provided proper medical care and treatment under the supervision of the jail authorities and the medical board. For releasing an accused on bail on medical grounds, it must be convincingly shown that, having regard to the nature of illness, his treatment is not possible even with advanced medical technology and available medicines. Reliance in this regard is placed upon the cases of *Shahbazuddin Chaudhry and another v. The 4 State* (PLD 2004 SC 785), *Ghulam Raza v. Khuda Bux and another* (2005 SCMR 1904), and *Muhammad Arshad v. The State and another* (1997 SCMR 1275).

9. It is also pertinent to observe that it is the primary duty of the jail authorities, in coordination with the concerned medical board, to ensure proper medical treatment of the under-trial prisoner and to take all necessary measures as and when required. In the circumstances, since adequate treatment has already been provided

and the medical board is actively attending to the applicant, the plea of bail on medical grounds does not merit acceptance.

10. It may be observed that the offences like robbery/dacoity are frequently reported to have been committed without any restriction in urban and rural areas, which are not only creating scare among the people but ruining the safety of the life and property of law abiding citizens and also generating sense of insecurity amongst public at large.

11. For the reasons recorded above, this Criminal Bail Application filed on behalf of the Applicant is dismissed. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

These are the reasons of short order dated 19.05.2026.

**JUDGE**