

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No. 2404 of 2026**

Applicant : Abdul Razzaque  
son of Huzoor Bux  
Through M/s. Muhammad Yousuf  
Narejo & Ms. Shagufta Jawaid Khan,  
advocates

Complainant : Naeem Ahmed Darbari  
son of Sharif Ahmed  
Through Mr. Ayatullah A. Bhanbhro  
advocate

The State : The State:  
Through Ms. Rabia Saqib,  
A. P. G. Sindh

Date of hearing : 07.10.2026.

Date of Order : 07.10.2026.

## **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 Abdul Razzaq son of Huzoor Bux, who seeks his release on bail in connection with FIR No.79 of 2026 registered at Police Station Landhi, Karachi for the offences punishable under Sections 395 PPC r/w section 412 PPC. The applicant has approached this Court being aggrieved by the order dated 27.07.2026 passed by the learned Additional Sessions Judge-VIII, Karachi East whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that the complainant stated that on 11.02.2026 at about 01:00 a.m., while he was sleeping at his cattle shed (Bara) situated at the inner side of Khurramabad, Landhi No.1, Karachi, near Gul's Bara, six armed persons awakened him and, claiming themselves to be police officials, tied his hands and legs and confined him in the room where fodder was kept. They also detained his three workers, namely Ilyas, Rehmatullah and Irshad. Thereafter, another group of 5/6 persons arrived in a white, unregistered Shahzore vehicle and, along with the other culprits, took away three buffaloes, weighing approximately 8/9 maan each, one

brown-coloured buffalo calf with a white face weighing about 5/6 maan, another buffalo calf weighing about 40 kilograms, one 100-ampere battery, cash amounting to Rs.15,000/-, three Realme touch-screen mobile phones bearing IMEI Nos. 867398076940832, 867398076940824, 864423071853690 and 864423071853682, and one blue-coloured Infinix touch-screen mobile phone, the IMEI number of which was not remembered by the complainant. The culprits thereafter fled from the spot in the said Shahzore vehicle and on motorcycles. The complainant stated that the culprits appeared to be Sindhi- and Urdu-speaking persons, aged about 30-40 years, and were wearing shalwar kameez and trousers, and requested legal action against them, hence this FIR.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case with mala fide intentions and ulterior motives. He submitted that the learned Trial Court while passing the impugned order failed to properly appreciate the facts and material available on record and did not apply its judicial mind. He further contended that the alleged incident took place on 11.02.2026 whereas the FIR was lodged on 13.02.2026 after an unexplained delay of about two days, which creates serious doubt in the prosecution case. He submitted that the applicant was initially arrested in FIR No.198/2026 under Section 23(i)(A) of the Sindh Arms Act, registered at Police Station Shah Faisal Colony, Karachi, and was subsequently implicated in the present case by the police; he has already been granted bail in the said case vide B.A. No.3986 of 2026 by the learned IXth Additional Sessions Judge, East, Karachi. Learned counsel further submitted that nothing incriminating was recovered from the applicant and the alleged recovery, if any, is a joint recovery and has been foisted upon him. He argued that there is no independent private eyewitness to the alleged occurrence, no specific role has been attributed to the applicant, and the allegations against him are general in nature. He maintained that there is no direct or indirect evidence connecting the applicant with the alleged offence and that the prosecution story is doubtful and requires further inquiry. He further submitted that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C., that the applicant is neither a habitual nor hardened offender, there is no likelihood of his absconding or

tampering with the prosecution evidence; therefore, prayed that the applicant may be admitted to bail.

4. Conversely, the learned APG assisted by learned counsel for the complainant opposes the bail application. They submits that the applicant is involved in a heinous offence and recovery has been effected on the pointation of the applicant/accused; 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. I have considered the arguments advanced by the learned counsel for the parties and examined the record with the tentative assessment mandated at the bail stage. The FIR in clear terms alleges the commission of robbery by six unknown persons and does not disclose the name, parentage, address, role, facial features, height, body structure, or any other identifying particulars that could remotely connect the Applicant with the alleged offence. In cases of dacoity committed by masked or unidentified offenders, the complainant's earliest version, namely the FIR, constitutes the primary and most reliable source of identification. Where such earliest account is completely devoid of any identifying description, any subsequent nomination of an accused becomes inherently weak and, in the absence of independent corroboration, legally unsafe. The record reveals that no such corroborative material is available. It is a well-settled principle laid down by the superior courts that where an accused is neither named in the FIR nor described therein, his belated nomination without a proper judicial identification parade gives rise to serious doubt and squarely brings the case within the ambit of further inquiry under Section 497(2), Cr.P.C.

6. Despite the fact that the FIR was registered against unknown offenders, the prosecution failed to conduct any judicial identification parade after the arrest of the Applicant. It is settled law that where an accused is not named in the FIR, no description of the culprits is given, and the arrest is effected at a subsequent stage, the holding of a lawful identification parade before a Magistrate becomes indispensable to connect the accused with the alleged offence. Such an exercise constitutes a substantive and vital step in the investigation and cannot be lawfully substituted by police station identification, telephonic identification, or

dock identification at trial. This admitted lapse strikes at the very root of the prosecution case and creates a serious dent, entitling the Applicant to the benefit of further inquiry. In similar circumstances, the Honourable Supreme Court of Pakistan in the case of Muhammad Rafique v. The State (1997 SCMR 412) has held that: "Fact that the petitioner is accused in a number of cases of robbery, is not sufficient to deprive him of his liberty. It has not come on record, as to, why identification test of the petitioner through eye-witnesses was not held when his name did not appear in the F.I.R. Mere production by the petitioner before police of some cash alleged to have been obtained by robbery, in absence of any other evidence. In this respect the observations made in the case of Ishaq Masih v. The State (1993 SCMR 1322) are relevant". Similar view has been taken by this Court in Case of Asif v. The State (2012 YLR 211).

7. Indeed, Section 395, P.P.C. prescribes alternative punishments, namely imprisonment for life or rigorous imprisonment for a term which shall not be less than four years nor more than ten years, in addition to fine. Consequently, where, upon a tentative appraisal of the material on record, the case falls within the scope of further inquiry as envisaged under Section 497(2), Cr.P.C., the likelihood of the accused being visited with the lesser punishment provided by law cannot be excluded. It is well-settled that in such circumstances, particularly where the identity of the accused is doubtful, the evidence lacks independent corroboration, and material contradictions are apparent, the statutory discretion in the matter of punishment operates in favour of the accused at the bail stage. Therefore, having regard to the dual punishments prescribed under Section 395, P.P.C., read with the doubtful and tentative nature of the prosecution case, the Applicant is entitled to the concession of bail on the touchstone of further inquiry.

8. So far as the offence under Section 412 PPC is concerned, the prosecution is required to show, at least prima facie, that the applicant dishonestly received or retained the alleged stolen property with knowledge or reason to believe that its possession had been transferred through the commission of dacoity. At this stage, except for the alleged recovery stated to have been effected on the pointation of the applicant, no independent material has been brought on record to establish that the

applicant had conscious knowledge that the recovered property was the subject matter of the alleged dacoity or that he had received the same from any person belonging to a gang of dacoits. The evidentiary value of the alleged recovery, its connection with the property allegedly taken away in the present occurrence, and the applicant's knowledge regarding the source of such property are matters requiring further probe at trial. Therefore, the applicability of Section 412 PPC to the applicant, in the circumstances of the present case, calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

9. For the foregoing reasons, and while making only a tentative assessment of the available material, I am of the view that the prosecution case against the Applicant is highly doubtful, suffering from material contradictions and procedural lapses. The case, therefore, falls within the scope of further inquiry as envisaged under Section 497(2) Cr.P.C. Accordingly, instant bail application is granted and the Applicant Abdul Razzaq son of Huzoor Bux is admitted to bail subject to furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Lac Only) and a P.R. bond in the like amount to the satisfaction of the trial Court. 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.

**JUDGE**