

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2464 of 2026

Applicant : Aijaz son of Mumtaz through Mr. Altaf Hussain, Advocate

The State : Through Ms. Anam Iqbal, Assistant Prosecutor General, Sindh

Date of hearing : 24.09.2026

Date of decision : 24.09.2026

ORDER

Jan Ali Junejo, J.- Through this bail application, Applicant-Aijaz son of Mumtaz seeks post-arrest bail in FIR No.421 of 2026, registered at Police Station Manghopir, Karachi, for offences punishable under Sections 392, 397 and 34, PPC. Earlier, the applicant's bail application was dismissed by the learned Sessions Judge, Karachi West, *vide* Order dated 24.07.2026.

2. The brief facts of the prosecution case, as set out in the FIR, are that on 14.07.2026, at about 08:30 p.m., the Complainant, along with his relatives and friends, was preparing to go out for dinner. While they were standing near the house, three persons riding on a motorcycle arrived there. One of them, allegedly armed with a weapon, committed robbery at gunpoint and snatched the Complainant's mobile phone containing a SIM card and having a damaged screen, along with cash amounting to Rs.21,000/-. The assailants also allegedly snatched an iPhone 13 Pro Max and a VIVO Y21 mobile phone from the Complainant's friend, namely Saifullah. It is further alleged that, when the assailants attempted to flee, the Complainant raised an alarm, whereupon residents of the locality and relatives gathered and chased them. During the pursuit, at about midnight, near Northern Bypass, Custom Police Post Manghopir, the Complainant and the accompanying persons allegedly succeeded in apprehending one of the suspects, whereas the other two managed to escape. It is alleged that a number of persons gathered at the spot and the apprehended person was subjected to beating, as a result whereof he sustained an injury near his right eye. Thereafter, his custody was handed over to the police. The apprehended person disclosed his name as Aijaz son of Mumtaz and allegedly disclosed the names of his two co-accused, namely, Mansoor and Habibullah, who had escaped from the scene. Hence, the present FIR was registered.

2. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated in the case. It was argued that no recovery of the allegedly robbed articles, cash or weapon has been effected from the Applicant, which creates serious doubt about the prosecution case. Learned Counsel further contended that the alleged occurrence took place at about 08:30 p.m., whereas the Applicant was allegedly apprehended around midnight, and despite the Applicant having remained in the custody of the Complainant and private persons during the intervening period, the prosecution has failed to furnish any satisfactory explanation regarding the circumstances and timing of his apprehension and the subsequent registration of the FIR. It was further argued that no independent witness from the public has been associated with the proceedings; nor has any CCTV footage, electronic evidence or other corroborative material been produced. According to learned Counsel, the alleged role attributed to the Applicant is doubtful and the case squarely calls for further inquiry within the meaning of Section 497(2), Cr.P.C. He therefore prayed for grant of bail.

3. Conversely, learned Assistant Prosecutor General, Sindh for the State opposed the application and submitted that the material available on record prima facie connects the Applicant with the commission of the alleged offence. She contended that the Applicant was apprehended immediately after the occurrence during a pursuit initiated by the Complainant and the accompanying witnesses and was thereafter handed over to the police. According to her, such apprehension in the course of the immediate pursuit constitutes prima facie incriminating material against the Applicant. She further submitted that the mere fact that no recovery has so far been effected from the Applicant is not, by itself, sufficient to extend the concession of bail, particularly when, according to the prosecution, the occurrence involved three accused persons and the other two succeeded in escaping. Learned APG maintained that the offences alleged fall within the prohibitory clause of Section 497(1), Cr.P.C., and that no ground for further inquiry is made out. She, therefore prayed for dismissal of the application.

4. I have heard the learned Counsel for the Applicant and learned Assistant Prosecutor General, Sindh for the State and have carefully examined the material available on record.

5. At the outset, the offences alleged against the applicant, particularly Section 397, PPC is non-bailable offence. It is, therefore, necessary to examine whether

the material available on record brings the case within the scope of further inquiry contemplated under Section 497(2), Cr.P.C.

6. Tentatively, the record shows that the Applicant was apprehended shortly after the alleged occurrence during a pursuit by the Complainant and other persons accompanying him. The prosecution case is that the applicant was caught while the alleged offenders were attempting to escape from the place of occurrence and that the other two alleged accomplices succeeded in fleeing. His custody was thereafter handed over to the police. At this stage, this circumstance cannot be altogether disregarded, particularly when it is considered alongside the specific accusation contained in the FIR.

7. The contention regarding non-recovery of the robbed articles, cash or weapon has also been considered. While recovery, where available, may provide corroborative material, its absence does not, by itself, demolish the prosecution case at the bail stage, particularly where the prosecution relies upon the apprehension of the accused immediately following the occurrence and the identification of the apprehended person by the complainant and accompanying witnesses. The evidentiary value of such material, as well as the effect of non-recovery and the absence of independent witnesses or electronic evidence, are matters which require proper assessment by the trial Court after recording and evaluating the evidence. At this stage, such matters cannot be subjected to deeper appreciation of evidence.

8. Likewise, the precise circumstances relating to the interval between the occurrence, the alleged apprehension of the applicant and registration of the FIR, as well as the manner, in which the Applicant was apprehended, are matters which can appropriately be examined during trial on the basis of evidence. On the material presently available, these circumstances do not, at this tentative stage, render the prosecution case so inherently doubtful as to bring it within the ambit of further inquiry under Section 497(2), Cr.P.C.

9. It is well settled that while deciding a bail application, the Court is required to make a tentative assessment of the material available on record and is not expected to conduct a deeper appreciation of evidence or record findings which may prejudice either side at trial. On such tentative assessment, the material presently available provides prima facie linkage of the applicant with the alleged occurrence. The fact that two alleged co-accused escaped does not, in the circumstances of the present case, make the prosecution version inherently improbable, nor does the

absence of recovery by itself furnish sufficient ground for extending the concession of further inquiry.

10. Consequently, having regard to the nature of the accusation, the punishment prescribed for the alleged offences, and the material presently available on record, I am not persuaded that the case of the Applicant falls within the ambit of Section 497(2), Cr.P.C. No case for further inquiry has, therefore, been made out.

11. For the foregoing reasons, this bail application, being devoid of merit, is **dismissed**. The observations made herein are tentative in nature and shall not prejudice the case of either party or influence the learned trial Court in deciding the case strictly on the basis of the evidence produced before it.

JUDGE

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