

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No.S-607 of 2025

Applicant : Ghulam Mustafa s/o Abdul Ghani, Kalo
The State : Through Syed Sardar Ali Shah Rizvi, Additional
Prosecutor General
Dated of Hearing : 12.09.2025
Dated of order : 15.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J. Applicant Ghulam Mustafa, seeks post-arrest bail in a case bearing crime No.192 of 2025, for offences under Sections 397 and 109 PPC, registered at Police Station 'B' Section, Khairpur. This Court is seized of the matter following the refusal of bail by the learned IIIrd Additional Sessions Judge vide order dated 11.06.2025.

2. The prosecution case, as narrated by the complainant, alleges a robbery committed by two unknown assailants in the early hours of 13.05.2025, near Good Luck Marriage Hall, involving movie cameras, lenses, and a mobile phone. The FIR was lodged with an unexplained delay of 12 days, naming the applicant as the mastermind without disclosing the source of such information or producing corroborative evidence.

3. The learned counsel for the applicant rightly contends the applicant's false implication, emphasizing the inordinate delay in lodging the FIR, the absence of direct involvement or identification at the scene, and the baseless allegation of recovery which is of a commonly used item without any specific description. It is well-settled that unexplained delay in lodging the FIR raises serious doubts about the veracity of the prosecution's narrative and such delay can be fatal to the prosecution's case unless satisfactorily explained. Furthermore, the claim attributing the robbery to the applicant through

unidentified accomplices lacks evidentiary basis, a principle emphasized in the judgments of *Tariq Pervaiz v. The State* (1995 SCMR 1345) and *Irshad Ahmed v. The State* (2019 SCMR 556), which caution against speculative imputations without concrete evidence.

4. It is pertinent to note that the offence under Section 397 PPC does not fall under the prohibitory clause of Section 497(1) Cr.P.C and bail in such like cases is a rule and its refusal an exception. The learned Additional Prosecutor General conceded that no reliable source has been placed on record to connect the applicant with the commission of the offence.

5. Considering the above, it is clear that the applicant has made out a prima facie case for further inquiry within the meaning of Section 497(2) Cr.P.C. The delay in lodging the FIR, absence of direct involvement, and weak recovery allegation justify indulgence. The applicant is therefore entitled to post-arrest bail on terms.

6. Accordingly, the bail application is allowed on the condition that the applicant furnishes solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand) and provides his personal bond in the like amount to the satisfaction of the trial Court. However, these observations are tentative in nature and shall not prejudice the trial Court's jurisdiction to decide the matter on merits after full trial.

J U D G E