

# **THE HIGH COURT OF SINDH AT KARACHI**

## **Criminal Bail Application No.2941 of 2025**

Applicant : Mudasir son of Muhammad Shafique  
through Mr. Zakir Hussain Bughio,  
Advocate

## **Criminal Bail Application No.2917 of 2025**

Applicant : Muhammad Waqas son of Muhammad  
Hanif through Mr. Muhammad Daud  
Narejo, Advocate

The State : Through Mr. Sharaf-u-Din Jamali,  
Assistant Attorney General, Pakistan

Date of Hearing : 07.11.2025

Date of Decision : 07.11.2025

## **ORDER**

**Jan Ali Junejo, J.-** Through these applications under Section 497, Cr.P.C., the applicants/accused Muhammad Waqas (Cr. Bail Application No. 2917/2025) and Mudasir (Cr. Bail Application No. 2941/2025) seek post-arrest bail in FIR No. 23/2025 registered at P.S. FIA CCC, Karachi, for offences under Sections 66 and 66A of the Copyright Ordinance, 1962, read with Section 109, PPC. Earlier, the learned Judge, Intellectual Property Tribunal, Karachi, declined post-arrest bail to the applicants vide order dated 18.10.2025 passed in Cr. Bail Applications No. 45/2025 and 46/2025. By short order dated 07.11.2025, these bail applications were allowed by this Court; the following are the reasons.

2. As set up in the FIR and investigation papers, a complaint routed through IPO-Pakistan alleged that counterfeit/infringing Atlas Honda products were being manufactured and supplied from godowns situated in Baldia, Keamari, Karachi. Enquiry No. 57/2025 commenced; a search warrant dated 23.09.2025 was obtained from the Judicial Magistrate XIII, West, Karachi. During a raid at property No. 1731/94, Mir Alam Road, Muhammad Nadeem was found with a large quantity of empty bottles, stickers, caps and shrink seals resembling Atlas Honda's products. At a nearby premises (property No. 1731/35), applicant Mudasir was allegedly found filling "Mobil oil" into bottles bearing Honda marks. The prosecution further alleges resistance during the raid resulting in damage to an FIA vehicle and injuries to officials. Both Nadeem and Mudasir were

apprehended. Applicant Waqas was not named in the FIR; he was later arrested on 16.10.2025 allegedly on pointation of co-accused with purported recovery of Atlas Honda packaging cartons under a recovery memo.

3. Learned counsel for Applicant Mudasir contends that no personal recovery was effected from the applicant's possession and that the FIR itself initially lacked specific address particulars regarding the alleged second premises. He argues that no independent mashir was associated at the time of recovery despite their availability, thereby undermining the prosecution's claim. He further submits that the alleged admissions attributed to the applicant while in police custody are inadmissible in evidence and, in any event, require strict proof. Learned counsel adds that there is an unexplained delay spanning from 2020 to 2025, whereas the FIR was only lodged on 23.09.2025; the offences alleged are non-prohibitory; the investigation stands completed; and the complainant has failed to place on record any authority from the actual rights holder. On these grounds, he maintains that the matter squarely falls within the ambit of *further inquiry* under Section 497(2), Cr.P.C. Lastly, he prays for grant of bail.

4. Learned counsel for Applicant Waqas argues that the applicant is a scrap dealer by occupation, is not named in the FIR, and was not arrested from the place of occurrence. He contends that his implication rests solely on the disclosure of co-accused Nadeem, which is inadmissible against a co-accused and remains wholly uncorroborated by any independent evidence. He submits that the recovery memo dated 16.10.2025 suffers from major procedural deficiencies, including the absence of departure and roznamcha entries as well as the non-association of independent mashirs. Counsel further points out that there is no proof of the applicant's possession, ownership, or conscious control of any incriminating premises or material. He maintains that the offences are non-prohibitory in nature, the challan has been submitted, and the continued detention of the applicant would serve no useful purpose. At the very least, he submits, the matter requires *further inquiry* within the meaning of Section 497(2), Cr.P.C. Lastly, he prays for grant of bail.

5. Learned DAG, assisted by the AD Legal FIA, opposes the grant of bail. He asserts that both applicants are habitual offenders who are involved in several similar FIRs and that the recovery was effected pursuant to a valid search warrant. He argues that the alleged offence is of a grave nature, impacting the public at large due to safety risks

associated with such activities, and that there exists a strong likelihood of repetition of the offence or interference with the prosecution evidence if the applicants are released on bail. With respect to Applicant Waqas, he contends that the recovery was effected on his pointation and that photographs are available on record to support the prosecution version. Lastly, he prays for dismissal of both bail applications.

6. I have considered the arguments advanced by the learned counsel for the Applicants and the learned Deputy Attorney General for the State, and have undertaken a tentative assessment of the material on record, as permissible at the bail stage. The settled law is that in offences not falling within the prohibitory clause of Section 497(1), Cr.P.C., the rule is bail and refusal is an exception; continued incarceration must be justified by exceptional circumstances such as likelihood of abscondence, tampering with evidence/witnesses, or the need for further investigation. Reference may be made to **Tariq Bashir v. The State (PLD 1995 SC 34)**, **Muhammad Tanveer v. The State (PLD 2017 SC 733)**, and subsequent reiterations. Where, on tentative assessment, the case calls for “further inquiry” within the meaning of Section 497(2), Cr.P.C., the accused “shall be released on bail.”

7. Sections 66 and 66-A of the Copyright Ordinance, 1962 prescribe maximum punishment up to three years; they do not attract the prohibitory clause of Section 497(1), Cr.P.C. The joinder of Section 109 PPC does not, by itself, enhance the maximum penalty for prohibitory clause analysis.

8. The record does not disclose personal recovery from Applicant Mudasir’s person. The allegation is that he was “found filling oil” at a premises identified during the raid. Whether he had custody, control or ownership of the premises or seized articles, or was merely present, is a factual question requiring evidence. Absence of personal recovery at bail stage tilts towards further inquiry. The FIR narrative is initially general, with property numbers appearing later in investigation papers. Admittedly, no independent mashir from the locality was associated despite the raid occurring in a populated area. While not per se fatal, such omission weakens the sanctity of recovery and renders the case open to doubt at this stage, supporting further inquiry.

9. The case is founded on a complaint “routed through IPO-Pakistan”. The prosecution has not placed before this Court a power of attorney/letter of authority/board resolution from the copyright proprietor specifically authorizing initiation of criminal proceedings. This is a material legal

question, potentially curable, but presently it raises doubt warranting further inquiry under Section 497(2), Cr.P.C. Alleged admissions made during “initial interrogation” are not confessions recorded in accordance with law and are inadmissible against the maker; statements of one accused are not evidence against another unless duly corroborated by independent material. At bail stage, reliance thereon to deny liberty would be unsafe. Mere pendency or multiplicity of FIRs, without conviction, does not dislodge the presumption of innocence, particularly in non-prohibitory offences. Public safety concerns, while important, can be addressed through appropriate bail conditions. The challan has been submitted; no further custodial interrogation is sought. The apprehension of repetition or tampering can be addressed by conditions.

10. On a tentative appraisal, the case against Applicant Mudasir falls within “further inquiry” for purposes of Section 497(2), Cr.P.C.

11. The Applicant Waqas is not named in the FIR, nor is he alleged to have been apprehended from the scene. His implication surfaced later. The prosecution relies on recovery allegedly effected on pointation of co-accused Nadeem. The recovery memo placed before the Court, prima facie, does not reflect necessary departure/roznamcha entries or association of independent mashirs from the locality. These procedural lapses cast doubt on the genuineness of the alleged recovery, particularly where the very linkage of the applicant to the premises/articles is in issue. Such doubt squarely attracts further inquiry. As a matter of evidentiary law, a disclosure/statement of a co-accused in police custody is inadmissible against another accused unless corroborated by independent evidence. The prosecution, at this stage, has not produced such independent, reliable corroboration connecting Waqas with conscious possession, custody, ownership, or dealing in infringing goods. The learned trial court’s observation branding the applicant as a habitual offender is not borne out for Waqas on the material presently shown to this Court; conversely, the defence asserts that this is his first FIR. In any case, absent prior convictions, mere allegations of multiple FIRs cannot, by themselves, suffice to deny bail in a non-prohibitory offence. The alleged offences do not attract the prohibitory clause; interim challan stands submitted. No request for further custodial interrogation of Waqas is shown.

12. On a tentative appraisal, the case against Applicant Waqas, too, falls within “further inquiry” under Section 497(2), Cr.P.C.

13. While the Court is conscious of the societal interest in curbing counterfeiting and the potential risk to consumers, those considerations must be balanced against the constitutional guarantee of liberty, the presumption of innocence, and the statutory mandate that, in non-prohibitory offences, bail is to be favored unless exceptional circumstances exist. Adequate and enforceable conditions can mitigate risks of abscondence, repetition, or tampering.

14. For the reasons set out above, both the bail applications are allowed. The applicants/accused Muhammad Waqas son of Muhammad Hanif (in Cr. Bail Application No. 2917/2025) and Mudasir son of Muhammad Shafique (in Cr. Bail Application No. 2941/2025) are admitted to post-arrest bail in FIR No. 23/2025 registered at P.S. FIA-CCC, Karachi, for offences under Sections 66 and 66-A of the Copyright Ordinance, 1962 read with Section 109 PPC, subject to the following conditions:

Each applicant shall furnish solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court.

15. Observations herein are purely tentative and confined to the question of bail. They shall not prejudice the trial Court, which shall decide the case strictly on the evidence led before it, uninfluenced by any observation made in this order. These are the detailed reasons of the Short Order dated: 07-11-2025.

**JUDGE**

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