

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.932 of 2026

Applicants : Aziz-ur-Rehman, & Abdul Wazir,
Through: Mr. Tahir Ikram, Advocate.

Complainant : Nisar Ahmed Siddiqui, Through:
Mr. Qamar Abbas Abbasi, Advocate
for KW&SC along with SI-
Naimatullah of Police Station
KW&SC

The State : The State: Through: Mr. Sharaf-ud-
Din Kanhar, Assistant Prosecutor
General, Sindh

Date of hearing : 31.03.2026

Date of Order : 31.03.2026

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. on behalf of the above-named applicants, who seek their release in case arising out of FIR No. 11/2026, registered at Police Station KW&SC, Karachi, for the offences under Sections 430, 427, 34, PPC read with Section 39(2) & 39(3) of Schedule-II Water and Sewerage Act, 2023, after dismissal of their bail application by the learned KW&SC Tribunal, Karachi vide order dated 06.03.2026.

2. Briefly, as per contents of the FIR, the complainant, being Assistant Executive Engineer of KW&SC, reported that on 24.02.2026, upon receipt of credible information, a raid was conducted at Manghopir near Ibrahim Mosque, Karachi, where an illegal hydrant was allegedly established by certain persons by breaking into a 66-inch government water supply line. It is alleged

that illegal connections were installed for theft of water, which was being filled into tankers for sale. During the raid, several tankers along with drivers and cleaners, including the present applicants, were apprehended at the spot. Various machinery, pipes, pumps, generator and other articles were recovered and taken into custody. Consequently, FIR was registered against the accused persons for committing theft of water, damaging public property and operating illegal hydrant.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated in this case with mala fide intention. He argued that no specific role has been attributed to the present applicants except that they were allegedly present at the spot in the capacity of driver and cleaner; neither ownership nor operation of the alleged hydrant has been connected with them. It was further argued that no recovery has been effected from their personal possession and the alleged recoveries were made from the site without association of any independent witness in violation of Section 103 Cr.P.C., rendering the case one of further inquiry. Learned counsel further submitted that the offences do not fall within the prohibitory clause of Section 497 Cr.P.C., the applicants are permanent residents, have no criminal antecedents, and the investigation is complete; therefore, they are entitled to concession of bail. He prayed that bail may be granted.

4. Conversely, learned counsel for KW&SC vehemently opposed the grant of bail and submitted that the applicants were apprehended at the spot during a raid while actively involved in

illegal extraction of water through tankers connected with an unauthorized hydrant. He argued that the applicants were specifically nominated and their presence at the crime scene clearly establishes their complicity. He further contended that the offence relates to theft of a vital public resource, causing huge loss to the public exchequer and hardship to citizens, hence the applicants do not deserve leniency. He prayed for dismissal of the bail application.

5. Learned Assistant Prosecutor General also opposed the bail application and adopted the arguments advanced by learned counsel for KW&SC. He submitted that sufficient material is available on record connecting the applicants with the commission of offence, particularly their arrest at the spot along with other accused persons and recovery of incriminating articles. He further argued that the nature of allegations is and affects society at large; therefore, the applicants are not entitled to concession of bail. He prayed for dismissal of the bail application.

6. I have considered the arguments advanced by the learned counsel for the parties and have perused the material available on record with their able assistance. From tentative assessment of the record, it appears that the role attributed to the present applicants is that of driver and cleaner of water tankers allegedly present at the site of the illegal hydrant. No specific allegation has been made showing that the applicants were involved in installation of illegal connections, breaking of the main water line, or ownership/operation of the alleged hydrant. Their implication prima facie rests upon their presence at the spot. It is also

noteworthy that the recoveries of machinery and equipment have been effected from the place of incident and not from the personal possession of the applicants. Moreover, no independent private mashir has been associated despite the alleged raid being conducted in a populated area, which prima facie creates doubt regarding the manner of arrest and recovery, making the case one of further inquiry within the meaning of Section 497(2) Cr.P.C.

7. Furthermore, the offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C. and carry lesser punishment. It is a settled principle of law that in such cases, bail is a rule and refusal is an exception, particularly when no exceptional circumstances are shown which may justify continued detention. The question as to whether the applicants had any active role in commission of the alleged offence or were merely present at the spot would be determined after recording of evidence at trial. At this stage, deeper appreciation of evidence is not warranted. In the case of *Muhammad Amjad Naeem v. The State through Prosecutor General Punjab and another* (2025 SCMR 1130), the Honourable Supreme Court of Pakistan held as follows: *“There is also another important legal aspect of this case, namely, that bail was refused vide the impugned judgment, notwithstanding the fact that the offence of criminal breach of trust punishable under section 406 P.P.C does not fall within the prohibitory clause of section 497(1) Cr.P.C. This refusal becomes questionable when examined in light of the settled principle of law, namely, that in cases involving commission of non-bailable offences not falling within the prohibitory clause of 497(1) Cr.P.C, bail is granted as a rule and*

refusal is an exception. Disregard of this cardinal principle of bail jurisprudence warrants serious judicial introspection”.

8. For the foregoing reasons, the applicants have made out a case for grant of bail. Consequently, the instant bail application is allowed. The applicants namely Aziz-ur-Rehman @ Azizullah S/o. Saeed Jan and Abdul Wazir S/o. Akhtar Muhammad are admitted to bail subject to furnishing solvent surety in the sum of Rs.50,000/- each and P.R. bond in the like amount to the satisfaction of the learned trial Court. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein. These are the detailed reasons for the short order dated 31.03.2026.

JUDGE