

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 3451 of 2025

Applicant : Qurban Ali through Ms.Fatima Jamila Jatoi,
Advocate.

Complainant : Baber Ali through Mr. Shafique Ahmed, Advocate.

Respondent : The State through Mr. Mumtaz Ali Shah, D.P.G.

Date of hearing : 26.3.2026.

Date of order : 26.3.2026.

ORDER.

TASNEEM SULTANA, J. — Through this criminal bail application, applicant Qurban Ali seeks post-arrest bail arising out of Crime No.355 of 2025 registered under Sections 395, 397, 34 PPC at Police Station Gadap City, Karachi. After rejection of his earlier Criminal Bail Application No.51370 of 2025 by learned Additional Sessions Judge-VIII, Malir, Karachi vide order dated 31.10.2025, hence this application for the same concession.

2. The brief facts of the prosecution case are that the complainant, Muhammad Paryal, while performing night security duty from 07:30 p.m. to 07:00 a.m. at Dam Percent B-5, Bahria Town, Karachi, along with Muhammad Urs, was present on duty when at about 01:30 a.m. seven duly armed persons intercepted them. Out of them, five accused, namely Younus, Owais, Ashfaq, Asif and Ameen, stated to be residents of Daryan Khan Goth and Arab Goth, were identified, while the remaining two were unknown. It is alleged that accused Younus placed a repeater on the complainant's head, tied the hands and feet of the complainant and his companion with ropes, and subjected them to beating. Thereafter, the accused persons deprived them of heavy-duty electric cable, 10 breakers, five press bars, his mobile phone i-12 with SIM No.0306-0023405, and cash amounting to Rs.10,000/-, while also snatching Rs.10,000/- from Muhammad Urs, and thereafter fled from the spot. The matter was immediately reported to Bahria Security and subsequently reported to the police for legal action.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the present case with mala fide intention and ulterior motives; that he is not nominated in the FIR and was arrested after a delay of about five months of the

alleged incident on the basis of spy information, without associating any independent mashir despite his arrest from a public place; that no description or features of the unknown accused were mentioned in the FIR, nor has any source of identification of the present applicant been disclosed; that no test identification parade was conducted, though the applicant was allegedly unknown to the complainant at the time of the incident; that recovery of robbed articles or weapon has not been effected from the possession of the applicant; that even the statement recorded under Section 161 Cr.P.C. does not disclose the name of the applicant; and that, in the circumstances, the case of the prosecution falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, opposed the bail application and contended that the applicant has been identified by the complainant in his statement recorded under Section 161 Cr.P.C.; that sufficient incriminating material is available on record connecting the applicant with the commission of the alleged offence; and that the alleged offence falls within the prohibitory clause of Section 497, Cr.P.C.; therefore, the applicant is not entitled to the concession of bail.

5. Heard. Record perused.

6. It appears from the record that the present applicant is not nominated in the F.I.R. and was arrested after about five months of the alleged incident on the basis of spy information. He has subsequently been implicated in the case in respect of the unknown accused persons, for whom neither any description nor identifying features were disclosed in the F.I.R. Furthermore, no test identification parade was conducted, though according to the prosecution, two accused persons were unknown at the time of occurrence. It further appears that no specific role has been attributed to the unknown accused persons against whom the present applicant has subsequently been implicated.

7. It is also noted that recovery of robbed articles or weapon has not been effected from the possession of the applicant. Moreover, the applicant was arrested from a public place without associating any independent mashir, which creates doubt and requires deeper appreciation of evidence at trial. It is settled law that where the identity of an accused remains doubtful and no test identification parade is conducted, the benefit at the bail stage is to be extended to the accused. Thus, prima facie, the case of the applicant falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.

8. It further appears that the applicant has been implicated through a supplementary statement recorded after about five months on the basis of spy information without any plausible explanation or any substantial material connecting him with the alleged offence. Such belated implication, without supporting incriminating material, creates reasonable doubt at this stage. Reliance is placed on the case of

Syed Saeed Muhammad Shah & others vs. The State (1993 SCMR 550), wherein it has been held that statements recorded after delay and without explanation are not safe to rely upon.

9. In view of the above facts and circumstances, the applicant has succeeded in making out a case for grant of post-arrest bail. Accordingly, the applicant, Qurban Ali, is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. These are the reasons for my short order dated 26.03.2026. .

10. The observations made herein are tentative in nature and shall not influence the learned trial Court while deciding the case on its own merits.

JUDGE