

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 916 of 2026

Applicant : Aftab Ali
son of Andal Khan
Through Mr. Ahmed Khan Karal,
advocate

Complainant : Wajid Marwat Khan
son of Mustafa Khan
Through Mr. Muhammad Nawaz,
advocate.

The State : The State:
Through Ms. Sharafuddin Kanhar,
A. P. G. Sindh

Date of hearing : 21.05.2026.

Date of Order : 21.05.2026.

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. by the applicant Aftab Ali son of Andal Khan, who seeks his release on bail in connection with FIR No.211 of 2024 registered at Police Station Bin Qasim, Karachi for the offences punishable under Sections 395/397 PPC. The applicant has approached this Court being aggrieved by the order dated 10.03.2026 passed by the learned Additional Sessions Judge-VIII, Malir at Karachi whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that complainant Wajid Marwat Khan son of Mustafa Khan stated that he is residing at the address as mentioned in column No.2 and is working as In-charge of China Metal Industry, Plot No. 44-A, Port Qasim Eastern Zone, Karachi. He further stated that on 02.07.2024, he, along with a Chinese national namely Zhang Shing (N) and Security Guard Muhammad Noman son of Mubarak Ali, bearing Riffle 222 No. 179-PDA-10, was returning to the company in a KIA

Sorento bearing registration No. 8167-BK after withdrawing Rs.20 million from the company's account maintained at Meezan Bank, Port Qasim Branch. At about 1620 hours, when they reached Port Qasim Road near Dewa PND Turk Parking, two white Toyota Corolla vehicles approached from behind carrying about 7 to 8 persons. The accused persons intercepted their vehicle and, at gunpoint, ordered them to stop; however, they did not comply, whereupon the accused opened fire and forcibly blocked their vehicle. Thereafter, four accused persons alighted from their vehicles, approached the complainant's vehicle while armed with firearms, and ordered the occupants to open the doors. The Chinese national, who was driving the vehicle, unlocked the doors, whereupon one of the accused opened the rear door and snatched the official weapon of Security Guard Muhammad Noman. Meanwhile, the Chinese national accelerated the vehicle and managed to escape from the spot. The accused chased their vehicle and continued firing at them, but they succeeded in reaching Port Qasim Check Post No. 02, where they stopped and informed the security personnel deployed there about the incident. The Chinese national also informed the company management. As a result of the firing, one bullet struck the rear side door of the vehicle, creating a hole, while two bullets hit the rear bumper. Both rear tyres were punctured by bullets, causing damage to the vehicle. The complainant stated that he is reporting the matter on the instructions of the company and alleged that 7 to 8 unknown accused persons, whose names and addresses are not known to him but whom he can identify if produced before him, opened fire upon them and damaged the vehicle, hence this FIR.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case by the police with mala fide intentions merely to show efficiency before their superiors. He submits that the learned trial Court while passing the impugned order failed to properly appreciate the facts

and material available on record and passed the same in a hasty manner. He further argues that the co-accused, namely Khadim Hussain, has already been granted bail by the learned VIII-Additional Sessions Judge, Malir, vide B.B.A. No.4238/2025 dated 26.02.2026; therefore, the applicant is also entitled to the concession of bail on the rule of consistency. Learned counsel further submits that the applicant has been implicated solely on the basis of the statement of a co-accused made before the police, which is inadmissible in evidence under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984. He argues that the applicant was neither nominated in the FIR nor connected with the alleged offence through any independent evidence and has been booked by the Investigating Officer without any lawful basis. It is further contended that no identification parade was conducted before a Magistrate, no incriminating article or weapon was recovered from the possession of the applicant, and no specific role has been attributed to him, as only general and omnibus allegations have been leveled. Learned counsel also points out that the complainant did not disclose any description or identifying features of the accused persons in the FIR, thereby rendering the subsequent implication of the applicant doubtful. He further submits that despite the alleged incident having occurred in a thickly populated area, the prosecution has failed to produce any independent witness from among the residents or passersby, which creates serious doubt in the prosecution case. According to learned counsel, there is neither direct nor circumstantial evidence connecting the applicant with the commission of the alleged offence except for the self-serving statements of the prosecution. He maintains that the case squarely falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C., wherein grant of bail is a rule. Lastly, he submits that the applicant is not a previous convict, habitual offender, or involved in any other criminal case and, therefore, is entitled to the concession of post-arrest bail.

4. Conversely, the learned APG assisted by learned counsel for the complainant opposes the bail application. He submits that the applicant is involved in a heinous offence; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the concession of bail.

5. This Court has given anxious consideration to the submissions advanced on behalf of the parties and has examined the record with utmost care. On a tentative assessment of the material available on record, it appears that applicant was identified by the complainant, against whom no previous enmity has been alleged. The prosecution witnesses, in their statements recorded under Section 161 Cr.P.C., have fully implicated the applicant in the commission of the alleged offence. The plea of the applicant regarding his false implication on account of mala fide on the part of complainant is a defence plea which cannot be conclusively examined at this stage without deeper appreciation of evidence, as the same falls beyond the scope of tentative assessment.

6. The contention of the learned counsel for the applicant that the applicant is entitled to the concession of bail on the ground of consistency, as co-accused Khadim Hussain has already been granted bail, is misconceived. It is trite law that the rule of consistency is applicable only when one person's case is at par with the accused whose post-arrest bail has been granted. In the instant case, the role attributed to co-accused Khadim Hussain is clearly distinguishable from that assigned to the present applicant. Furthermore, the nature and extent of the incriminating material collected against the applicant is materially different from that gathered against co-accused Khadim Hussain. As such, the case of the applicant is not at par with that of the co-accused.

7. The rule of consistency was explained by Hon'ble Apex Court in the case of Muhammad Atif v. The State (2024 SCMR 1071) in the following words:

"7. The rule of consistency in bail matters is attracted and applied after the grant of bail to a co-accused. Grant of bail by a court considers several factors like the contents of the FIR, the incriminating material collected by the police during investigation, the past history of the accused, etc. The grounds which form the basis for the grant of bail to a co-accused is thus the benchmark for grant of bail to the accused under the rule of consistency. Therefore, the court has to assess whether the role of the accused in the FIR, examined in the background of the material collected by the Police is the same as that of the co-accused, who has been granted bail. It is this congruence in the case of the co-accused and the accused that attracts the rule of consistency."

In light of the foregoing principles, and having found that the applicant's role and the supporting material against him is not identical to those of co-accused, the rule of consistency is not attracted in the present case. Accordingly, this contention of the learned counsel for the applicant fails.

8. It may be observed that the offences like robbery/dacoity are frequently reported to have been committed without any restriction in urban and rural areas, which are not only creating scare among the people but ruining the safety of the life and property of law abiding citizens and also generating sense of insecurity amongst public at large.

9. For the reasons recorded above, this Criminal Bail Application filed on behalf of the Applicant is dismissed. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

These are the reasons of short order dated 21.05.2026.

JUDGE