

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-1435 of 2025
[Allah Dad vs. The State]

Applicant by: Agha Ghulam Farooq advocate
Complainant by: Qazi Intikhab Azam advocate
State by: Mr. Altaf Hussain Khokhar D.P.G
Date of hearing 17.06.2026
Date of Order 17.06.2026

ORDER

TASNEEM SULTANA, J: Through Criminal Bail Application applicant Allah Dad seeks post-arrest bail in Crime No.127 of 2025 registered at P.S Qasimabad Hyderabad under Section 397 and 34 PPC. His earlier bail application for the same relief was dismissed by the learned trial Court vide Order dated 18.11.2025.

2. Brief facts of the prosecution case are that on 08.04.2025 at 2030 hours, complainant Muslim Miraza appeared at Police Station Qasimabad and stated that he used to perform management work at Fazal & Brothers. On the same day, at about 1620 hours, he along with Safdar Saeed went to Meezan Bank for withdrawal of Rs.40,00,000/-. After receiving the said cash, they kept the amount in three envelopes and came out of the bank. When they sat in the car of Safdar Saeed, at about 1630 hours, three persons, with open faces, came on a black 125 motorcycle, armed with pistols. The complainant and his companion clearly saw them and stated that they could identify them if seen again. The said persons, on the force of weapons, robbed the envelopes containing Rs.40,00,000/- and went towards Wadhu Wah side. Hence, the FIR was lodged.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated due to mala fide and annoyance; that he is not nominated in the FIR; that co-accused has already been granted bail by this Court; that the applicant has been involved by the police on the instigation of landlords of the village on account of political rivalry; that no independent witness has supported the prosecution case; therefore, the applicant is entitled to the concession of post-arrest bail.

4. Conversely, learned D.P.G. Sindh, assisted by learned counsel for the complainant, opposes the bail application and submits that after arrest, the applicant was duly identified by the complainant during identification parade before the learned Magistrate; that an amount of Rs.4,00,000/- was recovered on his pointation; and that no mala fide has been shown against the complainant or the police. He, therefore, submits that the applicant is not entitled to bail.

5. Heard. Record perused.

6. The record reflects that though the applicant was not nominated in the FIR, his involvement has surfaced through material collected during investigation after his arrest. He was produced before the learned Magistrate for identification parade, wherein the complainant identified him as one of the culprits involved in the occurrence. The said identification is not standing alone; it is further supported by the alleged recovery of Rs.4,00,000/- effected on the pointation of the applicant vide recovery memo dated 26.04.2025. These two circumstances, when read together, provide a strong prima facie link between the applicant and the commission of the alleged offence. In presence of such connecting material, no case for further inquiry or grant of post-arrest bail is made out at this stage.

7. The plea of mala fide has also not been substantiated from the record. On the one hand, the applicant has alleged that he was falsely implicated due to annoyance of the complainant, while on the other hand, it was argued that he was involved by the police on the instigation of landlords of the village on account of political rivalry. These two pleas are not only unsupported by any material but also proceed on different and inconsistent grounds. In absence of any prima facie material showing mala fide, such plea cannot by itself furnish a valid ground for bail.

8. There is no dispute that Section 397, P.P.C. carries punishment which may extend to seven years and does not fall within the prohibitory clause of Section 497(1), Cr.P.C. However, grant of bail in a non-prohibitory offence is not automatic. The Court is still required to examine the nature of accusation, role attributed to the accused, manner of occurrence, supporting material and other attending circumstances. It has consistently been held by the Hon'ble Supreme Court that in non-bailable offences, bail is a concession and not a right, and discretion in such matters cannot be exercised arbitrarily or mechanically. Reference may be made to the case of **Shameel Ahmed v. The State** (2009 SCMR 174), wherein the Hon'ble Supreme Court has held as under:—

“4..... With regard to the contention that the bail should always be granted in cases not falling within the domain of prohibition clause of proviso to section 497, Cr.P.C. it is observed that it is not a rule of universal application. Each case has to be seen through its own facts and circumstances. The grant of bail, no doubt, is discretion granted to a Court, yet the exercise of it cannot be arbitrary, fanciful or perverse.”

9. In the case of **Mehmood Siddique v. Imtiaz Begum and two others** (2002 SCMR 442), the Hon'ble Supreme Court has held as under:—

“4.....None can claim that bail as of right is non-bailable offences even though the same do not fall under the prohibitory clause of section 497 Cr.P.C.”

10. In view of the above facts and circumstances, the applicant has failed to make out a case for grant of post-arrest bail. Consequently, the instant bail application is dismissed.

11. Needless to observe that the observations made hereinabove are tentative in nature and shall not prejudice either party at trial.

JUDGE

Sajjad Ali Jessar