

# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1435 of 2026

Applicant : Muhammad Rafiq  
Son of Muhammad Hussain  
through Mr. Imdad Ali Malik, Advocate

Respondent : The State  
through Mr. Tahir Hussain, A.P.G. Sindh  
a/w SI-Muhammad Riaz of PS SITE-A.

Complainant : Fazal Subhan son of Shahabuddin,  
Through: Nemo

Date of hearing : 23.06.2026.

Date of order : 23.06.2026.

## **ORDER**

*Jan Ali Junejo, J.* – By this order, I intend to dispose of the above captioned bail application whereby applicant Muhammad Rafiq son of Muhammad Hussain seeks post arrest bail in Crime No.194 of 2025 registered at Police Station SITE-A, Karachi for offences under Sections 395, 397 and 34 PPC. Prior to this, the applicant had sought the same relief before the learned Additional Sessions Judge-XII, Karachi West, which was declined vide order dated 26.03.2026.

2. As per the FIR lodged by complainant Fazal Subhan, on 23.04.2025 at about 12:30 p.m., six unknown persons on three motorcycles allegedly committed a robbery at Sawat Jewelers, Sonar (Goldsmith) Gali, SITE Area, Karachi, at gunpoint, snatching approximately 09 tolas of gold; while fleeing, the culprits resorted to aerial firing causing firearm injuries to two passersby. Two alleged culprits, namely Mehmood Khan and Muhammad Rafiq, were apprehended at the spot in injured condition and unlicensed pistols were allegedly recovered from them along with a motorcycle, hence, this FIR.

3. Learned counsel for the applicant has advanced his submissions with vehemence and argued, inter alia, that the applicant is innocent and have falsely been implicated in this case; that co-accused namely Jam Muhstaque

Ahmed @ Mukhtar and Muhammad Younus @ Qari have been released on bail and the case of the applicant is identical to the cases of co-accused; that no material is available on record to connect the applicant/accused with the commission of alleged offence; that no recovery has been made from explosive possession of the applicants/accused, as such, they are entitled for concession of bail.. Lastly, he prays for post-arrest bail to the applicant.

4. Conversely, the learned APG opposes the bail application. He submits that the applicant is involved in a heinous offence and from his possession robbed articles of the complainant has been recovered; 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. I have heard the arguments advanced by the learned counsel for the applicant and the learned APG and have perused the material available on the record with their able assistance.

6. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Assistant Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. Upon a thorough and meticulous scrutiny of the case record, it is evident that the applicant is nominated in FIR and was arrested on the spot. The available material sufficiently connects the Applicant with the commission of the offense. The Applicant has failed to establish grounds for further inquiry. The offence charged against the applicants under Sections 395 & 397 P.P.C. is of a heinous nature, carrying severe punishment, which necessitates cautious consideration before granting bail. The learned counsel for the applicant has argued that the case does not fall within the prohibitory clause of Section 497(1) Cr.P.C., warranting bail as a matter of right. However, the Hon'ble Supreme Court of Pakistan in Shameel Ahmed v. The State (2009 SCMR 174) has categorically held that bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in Afzaal Ahmed v. The State (2003 SCMR 573), it was held that the mere fact that an offense does not fall within the prohibitory clause does

not automatically render itailable, and the Court retains discretion in granting bail based on established legal principles.

7. 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 Jam Muhstaque Ahmed @ Mukhtar and Muhammad Younus @ Qari have already been granted bail by this court, 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 Jam Muhstaque Ahmed @ Mukhtar and Muhammad Younus @ Qari are 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 Jam Muhstaque Ahmed @ Mukhtar and Muhammad Younus @ Qari. As such, the case of the applicant is not at par with that of the co-accused.

8. 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 applicants' role and the supporting material against them are 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 applicants fail.

9. Considering the strong prima facie evidence against the applicant, including arrest on the spot, I do not find any reasonable grounds to treat this case as one warranting “further inquiry” under Section 497(2) Cr.P.C. The seriousness of the allegations and the potential punishment also negate any presumption in favor of bail. Thus, the Applicants are not entitled for grant of bail at this stage.

10. In light of the foregoing reasons, the present bail application filed on behalf of the Applicant, being devoid of substantive merit, is hereby dismissed. It is further clarified that the observations made herein are confined solely to the adjudication of this bail application and shall not prejudice or influence the merits of the case during the trial proceedings.

These are the detailed reasons of the Short Order dated: 23.06.2026.

**JUDGE**