

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Bail Application No. S- 261 of 2026

Applicants: 1. Muhammad Waseem s/o Muhammad Younis,
2. Nadeem s/o Salahuddin,
3. Barkat Ali s/o Habibullah,
through Mr. Ghulamullah Chang, Advocate.

Complainant: Javed Ali s/o Muhammad Arif
through Mr. Dilawar Hussain Panhwar,
Advocate.

State: Mr. Ghulam Abbas Dalwani, D.P.G.

Crl. Bail Application No. S-268 of 2026

Applicant: Nadeem s/o Sahibdino
Through Mr. Ghulamullah Chang, Advocate.

State: Mr. Ghulam Abbas Dalwani, D.P.G.

Crl. Bail Application No. S-269 of 2026

Applicant: Barkat Ali s/o Habibullah
Through Mr. Ghulamullah Chang, Advocate.

State: Mr. Ghulam Abbas Dalwani, D.P.G.

Date of hearing: 21.07.2026

Date of order: 21.07.2026

ORDER

Khalid Hussain Shahani, J.- By this consolidated order, I propose to dispose of the aforementioned bail applications collectively, as they arise from a common factual matrix and involve overlapping questions of law. The applicants Muhammad Waseem, Nadeem, and Barkat Ali seek post-arrest bail in Crime No. 04 of 2026, registered for offences punishable under Sections 458, 397, 506(ii), and 34, P.P.C. at P.S. Bodar Farm, while applicants Nadeem and Barkat Ali additionally seek post-arrest bail in Crime Nos.07 and 08 of 2026 respectively, registered under Section 24 of the Sindh Arms Act at the same police station. Their prayer follows the dismissal of their bail plea by the learned Additional Sessions Judge-II, Umerkot, vide order dated 29.04.2026.

2. The genesis of the prosecution's case, as reflected in the record, is that during the intervening night of 29/30.01.2026, four unidentified armed intruders trespassed into the complainant's residence, subdued the occupants at gunpoint, and decamped with gold ornaments, silver articles, and a mobile phone. The F.I.R., lodged on 01.02.2026, named no assailant, the perpetrators being then unknown. It was only after the passage of about seventy-one days, through supplementary statements recorded under Section 162, Cr.P.C. on 13.04.2026, that the complainant came forward to nominate the present applicants and a co-accused, culminating in their arrest and the subsequent recovery of the allegedly stolen property and weapons at their instance.

3. Learned counsel for the applicants, pressing their case with considerable vigor, submitted that his clients stand falsely enmeshed on account of pre-existing enmity between the parties. He drew this Court's pointed attention to the circumstance that the F.I.R. was initially lodged against unknown culprits, and that the applicants' names surfaced only after an unexplained and inordinate delay of seventy-one days, unaccompanied by any Test Identification Parade, a lacuna he characterized as fatal to the prosecution's case at this stage. He further contended that the recoveries attributed to the applicants are foisted and remain unfortified by independent *mashirs*, that no specific role has been ascribed to any applicant so as to attract the rigors of Section 397, P.P.C., and that, investigation having since concluded, the matter falls squarely within the contemplation of further inquiry under Section 497(2), Cr.P.C. In fortification of these submissions, he placed reliance upon 2016 P Cr. LJ Note 54 (Sindh, Hyderabad Bench), 1997 SCMR 971, 2025 P. Cr. LJ 517 (Sindh), and 2025 YLR 661 (Sindh).

4. Learned counsel for the complainant, resisting the application with equal tenacity, submitted that sufficient incriminating material exists upon the record to connect the applicants with the commission of the offence. He emphasized that the applicants were duly nominated during investigation, and that the recovery of robbed articles and unlicensed weapons at their pointing, giving rise to independent proceedings under the Sindh Arms Act against applicants Nadeem and Barkat Ali, disentitles them from the concession sought. He accordingly prayed for dismissal of the applications, placing reliance upon 2009 SCMR 174 and 2003 SCMR 573.

5. Learned D.P.G. adopted and reinforced the submissions advanced on behalf of the complainant.

6. A careful examination of the record discloses that the F.I.R. was admittedly registered against unknown culprits, and it is only through supplementary statements recorded under Section 162, Cr.P.C., after an unexplained delay of some seventy-one days, that the applicants' names entered the prosecution's narrative, without disclosure of the source of information. It is well settled, as held in *Farman Ali v. The State* (1997 SCMR 971), that where the identity of an accused is not disclosed at the earliest opportunity, and no Identification Parade is conducted to fortify a subsequent, belated nomination, such circumstances suffice to raise a reasonable doubt warranting further inquiry at the bail stage. The present case answers precisely to that description: no Identification Parade was conducted notwithstanding that the assailants' identity was, at the time of the F.I.R.'s registration, wholly unknown, and the delayed nomination stands unexplained upon the record. This lacuna, viewed cumulatively, casts a prima facie shadow upon the question of identity, a matter reserved for the deeper scrutiny that only a full-dressed trial can supply.

7. The precedents invoked by learned counsel for the complainant, namely *Shameel Ahmed v. The State* (2009 SCMR 174) and *Afzal Ahmed v. The State* (2003 SCMR 573), do not, in this Court's estimation, advance the complainant's case to the extent contended. Those authorities proceed upon the premise of recoveries effected promptly and corroborated by independent evidence sufficient to establish a strong *prima facie* link between the accused and the offence, thereby justifying denial of bail at the threshold. The present matter stands upon a materially different footing: the recoveries of stolen articles and unlicensed weapons alleged to have been effected at the applicants' pointing are contested by the defence and remain unfortified by any independent *mashir*, rendering their evidentiary worth, unlike in the cited cases, a live question reserved for trial rather than a settled fact capable of foreclosing the concession of bail. The distinction is not one of form but of substance, and it is this very infirmity that brings the present case within the protective ambit of further inquiry rather than outside it.

8. It is not disputed that investigation stands concluded and the report under Section 173, Cr.P.C. already lies before the learned trial Court. In these circumstances, where the questions of identity, the delay in nomination, and the genuineness of the alleged recoveries remain unresolved, and where the complainant's cited authorities stand distinguishable on the facts noted above, the case of the applicants falls squarely within the protective ambit of Section 497(2), Cr.P.C., calling for further inquiry rather than incarceration pending trial.

9. For the foregoing reasons, this Court is satisfied that the case against the applicants is one warranting further inquiry within the contemplation of Section 497(2), Cr.P.C. Accordingly, the three captioned bail applications are allowed, and the applicants are admitted to post-arrest

bail in their respective crimes upon furnishing surety in the sum of Rs. 1,00,000/- (Rupees One Lac only) each, together with a personal recognizance bond in the like amount, to the satisfaction of the learned trial Court.

10. It is clarified that the observations recorded hereinabove are tentative in character, confined strictly to the disposal of the bail applications, and shall not be construed so as to fetter or influence the independent determination of the case on merits by the learned Trial Court.

JUDGE

Faisal