IN THE HIGH COURT OF SINDH CIRCUIT COURT AT MIRPURKHAS

Crl. Bail Applications No. S-248 of 2026

Applicant: Shahnawaz son of Allah Dino (on bail)
Through Mr. Irfan Ali Chang, Advocate.

Crl. Bail Applications No. S-273 of 2026

Applicant: Aneel Kumar son of Ranchore (on bail)
Through Mr. Dileep Kumar Kolhi, Advocate.

Crl. Bail Applications No. S-274 of 2026

Applicant: Syed Hammad Hussain son of Zahid Hussain (on bail)
Through Mr. Satram Sonani Bheel, Advocate.

Crl. Bail Applications No. S-340 of 2026

Applicant: Hafiz Muhammad Kashif son of Akhtar Hussain.
Through Mr. Aziz Ahmed Laghari, Advocate.

Complainant: Dileep Kumar son of Chetan Rai.
Through M/s. Wishan Das Kolhi and Munnazah Siddiqui, Advocates.

The State: *Through* Mr. Ghulam Abbas Dalwani D.P.G.

Date of hearings: *16.07.2026*
Date of order: *31.07.2026*

O R D E R

KHALID HUSSAIN SHAHANI, J. –Applicants Shahnawaz, Aneel Kumar and Syed Hammad Hussain, seek confirmation of the ad-interim pre-arrest bail already extended to them by this Court, whereas the applicant, Hafiz Muhammad Kashif, seeks the concession of post-arrest bail in a case bearing Crime No. 67 of 2026 registered at Police Station Digri under Sections 406, 407, 381, 34 P.P.C. Their earlier attempts before the trial court having met with dismissal.

2. The prosecution case, as unfolded through the F.I.R lodged by complainant Dileep Kumar, District Manager PPHI, on 05-05-2026 at 1700 hours, is that Syed Hammad Hussain

functioned as Store Manager, Hafiz Muhammad Kashif as Assistant Store Keeper, and Shahnawaz along with Aneel Kumar worked as medicine handlers at the PPHI office, Digri, and that these four persons, acting in collusion, tampered with the official stock record and misappropriated medicines worth about Rs. 90,25,816, comprising Amoxil capsules, Diclofenac and Metronidazole tablets and Paracetamol tablets, the matter having surfaced through a departmental inquiry and letter No. 7779 dated 27-04-2026.

3. Learned counsel for applicant Hafiz Muhammad Kashif has argued with considerable force that applicant tendered resignation from service as far back as 24-08-2024, whereas the occurrence itself is alleged to have taken place in May or June 2025, a full nine to ten months after his severance of relationship with the department, and that the matter was reported to police only in September 2025, thereby stretching the delay to nearly a year without plausible explanation being furnished by the complainant. He has further submitted that not a single article, capsule or tablet has been recovered from the possession of any of the accused persons, that the arrest in the matter took place only on 05-05-2026, and that curiously the head of the department and other officers who bore ultimate responsibility for supervision and custody of the stock have been conveniently left out of the array of accused, thereby lending colour to selective and motivated implication. On the question of the applicability of Section 406 P.P.C. to a person who had already snapped his employment ties long before the alleged occurrence, learned counsel has placed emphatic reliance upon the case of *Ali Raza*[1], urging that criminal breach of trust, being a species of offence that presupposes entrustment of property and its subsequent dishonest conversion by the person so entrusted, cannot be fastened upon an individual who had, well before the period of the alleged occurrence, ceased to hold any office, custody, or dominion over the property in question; the entrustment being the very foundation of the offence under Section 406 P.P.C., its absence at the material time, according to the ratio of the cited

[1] *Ali Raza V. The State & others* (2022 SCMR 1223).

authority, is fatal to the invocation of that provision against a person similarly placed.

4. Learned counsel appearing for applicant Syed Hammad Hussain has adopted a parallel line of reasoning, contending that applicant resigned from the post of Store Manager in May 2025, that the resignation was formally accepted in July 2025, and that prior to demitting office he ensured proper handing over of the medicine stock to the succeeding official, a fact amply borne out by the charge handing and taking over report placed on record, which reflects that charge was relieved on 02-08-2025 with a full and acknowledged inventory of medicine and other stock handed over to the Assistant Store Manager. It has been argued that once the stock stood duly transferred, verified and acknowledged in writing by the successor official, no misappropriation could plausibly be attributed to an official who had already exited the department well before the F.I.R came to be registered, and that the documentary handing-over record itself displaces the presumption of continuing entrustment upon which the prosecution case is founded.

5. For applicants Shahnawaz and Aneel Kumar, learned counsels have drawn a clear distinction of role, submitting that applicants' duty was confined to receiving medicines from the store keeper against a proper receipt and thereafter supplying the same to various Basic Health Units and Government dispensaries situated across the district, a purely ministerial and transit function that carried with it no custodial control or decision-making authority over the stock, and that consequently they have nothing whatsoever to do with the alleged misappropriation or tampering of record, their role being at best that of a conduit rather than a custodian.

6. On the other side, learned D.P.G assisted by counsel for the complainant has vehemently opposed the grant of the concession of bail to all four applicants, submitting that the departmental inquiry conducted by PPHI Sindh has squarely fixed responsibility upon the applicants for large-scale misappropriation and tampering of official record involving medicines meant for poor and needy patients visiting government health facilities, and that such an offence, being one of institutional corruption and breach of

public trust, ought not to be treated with leniency at the bail stage. He has placed reliance upon the case of Shameel Ahmed[2], urging that where a departmental inquiry, conducted by the competent authority in accordance with law, has returned a finding of complicity against the accused persons, and where the alleged act has resulted in demonstrable pecuniary loss to public property or public health interests, the tentative assessment required at the bail stage must lean in favour of the prosecution, and the concession of bail is not to be extended as a matter of course merely because the offence falls outside the prohibitory clause of Section 497 Cr.P.C.

7. This Court has anxiously considered the rival contentions, together with the case law cited at the bar, and has gone through the record with the care that a matter of this nature demands, mindful always that at the bail stage only a tentative assessment of the material is to be undertaken, without entering into a deeper appreciation of evidence, which exercise is the exclusive domain of the trial court. The supra case of Shameel Ahmed cited by learned counsel for the complainant, while correctly enunciating the principle that findings of a departmental inquiry constitute relevant material for the tentative assessment at the bail stage, was rendered in a factual context where the accused persons continued to hold custodial control over the property at the time the misappropriation was alleged to have occurred, a circumstance materially absent qua applicants Hafiz Muhammad Kashif and Syed Hammad Hussain, both of whom had exited service well before the period of the alleged occurrence; the ratio of that judgment, therefore, does not extend with equal force to persons who stand outside the department at the relevant time. Conversely, the authority relied upon the case of Ali Raza[3] by learned counsel for applicant Hafiz Muhammad Kashif, directly addresses the essential ingredient of entrustment that undergirds an offence under Section 406 P.P.C., and its ratio, that absence of entrustment or custody at the time of the alleged conversion negates the very foundation of the charge, finds substantial resonance with the facts of the present case, given that the applicant had resigned nearly nine to ten

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[2] Shameel Ahmed v. The State (2009 SCMR 174).
[3] Ali Raza v. The State (2022 SCMR 1223).

months prior to the period during which the occurrence is alleged to have taken place.

8. Viewed in this light, the delay of nearly a year between the alleged occurrence in May or June 2025 and the lodging of the F.I.R on 05-05-2026 assumes considerable significance, particularly where the complainant, admittedly a District Manager possessed of full administrative control, has offered no satisfactory explanation for having allowed such a prolonged interval to elapse before approaching the police, a circumstance which by itself is capable of casting a reasonable doubt upon the promptitude and, consequently, the reliability of the prosecution version. Equally material is the complete absence of recovery of any misappropriated medicine, or any part thereof, from any of the applicants despite the passage of considerable time since the registration of the case, a factor that weakens the edifice of the prosecution story at this tentative stage. The circumstance that the head of the department and other officers who exercised overall supervisory control over the stock and the store have not been arrayed as accused, despite the scale of the alleged misappropriation, further lends support to the plea of selective implication and requires resolution through the process of trial rather than by continued incarceration or apprehension of arrest.

9. As regards applicant Hafiz Muhammad Kashif and Syed Hammad Hussain, the admitted position that both had resigned from service well before the period during which the occurrence is alleged to have taken place, coupled with the documentary record of formal handing and taking over of charge in respect of Syed Hammad Hussain and the ratio of Ali Raza supra case as regards absence of entrustment qua Hafiz Muhammad Kashif, renders their continued custodial connection with the alleged misappropriation a matter requiring further probe rather than one warranting a conclusive finding of guilt at this stage. Similarly, the role attributed to applicants Shahnawaz and Aneel Kumar, confined as it is to the mere physical transmission of medicines from the store to various health facilities under a receipt-based mechanism, does not, prima facie, place them in the same position of custodial trust as a store

keeper or manager, and the question whether such transit function attracts the ingredients of criminal breach of trust under Section 406 P.P.C. is a matter more appropriately left for determination after recording of evidence.

10. For the foregoing reasons, confining these observations strictly to the purpose of bail, the ad-interim pre-arrest bail already granted to applicants Shahnawaz in Crl. B.A. No. S-248 of 2026, Aneel Kumar in Crl. B.A. No. S-273 of 2026, and Syed Hammad Hussain in Crl. B.A. No. S-274 of 2026 is hereby confirmed on the same terms and sureties as already furnished before this Court, and the connected bail applications stand disposed of accordingly. Applicant Hafiz Muhammad Kashif, in connection with Crime No. 67 of 2026 of Police Station Digri, is admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs. 1,00,000 (Rupees one lac only) along with a P.R. bond in the like amount to the satisfaction of the trial court. It is clarified that the observations made hereinabove are of a tentative nature, rendered solely for the purpose of deciding the question of bail, and shall in no manner prejudice either party during the course of the trial.

J U D G E

Adnan Ashraf Nizamani