

ORDER SHEET
THE HIGH COURT OF SINDH, MIRPURKHAS CIRCUIT

Crl. Bail Application No. S-455 of 2026

Applicant	:	Shahid Bhatti through Mr. Abdul Hafiz Mari, Advocate.
Respondent	:	The State through Mr. Neel Parkash D.P.G.
Complainant	:	Amanullah through Mr. Mehboob Ali Kapri, Advocate.
Date of Hearing	:	21.09.2026
Date of Order	:	21.09.2026

ORDER

Muhammad Humayon Khan, J.: Through the instant Criminal Bail Application under Section 497 Cr.P.C., the applicant/accused, Shahid Bhatti son of Muhammad Akram Bhatti, seeks post-arrest bail in Crime No.103 of 2026, registered at Police Station Jhuddo for offences under Sections 397, 341, 506(ii) and 337-H(ii), PPC. The applicant is not nominated in the FIR and claims to have subsequently been implicated during investigation without any proper identification or identification parade. It is further asserted that no incriminating recovery has been effected from his possession, that his alleged involvement rests upon subsequent material collected by the police, and that the case against him calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

2. The brief background of the prosecution case, as reflected from the FIR, is that on 19.07.2026 at about 8:09 p.m., complainant Naveed Nawaz was present at his confectionery shop situated at Saman Sarkar Road, near UBL Bank, Jhuddo, along with Ali Akbar Khan and his younger brother Noman Nawaz, when three unidentified persons, with their faces covered, allegedly arrived on a motorcycle. According to the complainant, one of them was armed with a pistol, another with a rifle, while the third was carrying a bag. They entered the shop, threatened the complainant and the persons present there at gunpoint, and allegedly took away cash amounting to approximately Rs.20,00,000/- from the shop counters. It is further alleged that, while fleeing from the spot, the accused persons fired a shot and escaped on the motorcycle. The occurrence was stated to have been captured by the CCTV camera installed at the shop. On such report, Crime No.103 of 2026 was registered at Police Station Jhudo under Sections 397, 341, 506(ii) and 337-H(ii), PPC, whereafter investigation commenced and the present applicant was subsequently arrested and implicated in the case.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case, although he was neither nominated in the FIR nor was any description furnished therein capable of connecting him with the alleged occurrence. He argued that the applicant was subsequently introduced during investigation without any lawful identification process and, despite the accused persons in the FIR having been described as masked, no identification parade was conducted before the competent Magistrate. It was further argued that no robbed amount, weapon or other incriminating article has been recovered from the possession of the applicant and that the alleged recovery attributed to a co-accused cannot, by itself, constitute sufficient material against the present applicant. Learned counsel also pointed out that the FIR was lodged with considerable delay, no independent person from the populated locality was associated in the investigation, and the requirements of Section 103, Cr.P.C. were allegedly not observed. He further submitted that no injury was caused to the complainant or the prosecution witnesses and, therefore, the applicability of Section 397, PPC also requires consideration. According to learned counsel, the material collected by the prosecution does not provide reasonable grounds for believing that the applicant is connected with the commission of the alleged offence; rather, his case squarely calls for further inquiry within the meaning of Section 497(2), Cr.P.C. He lastly submitted that the applicant is already in judicial custody, is no longer required for investigation, has no previous criminal record, and is ready to furnish solvent surety to the satisfaction of the Court.

4. Conversely, learned DPG for the State opposed the grant of bail and contended that the applicant has been connected with the commission of the alleged offence during the course of investigation. He submitted that the occurrence involves an armed robbery of a substantial amount and that the prosecution material, including the circumstances collected during investigation and the alleged recovery attributed to the accused party, prima facie connects the applicant with the crime. Learned DPG further argued that the pleas relating to identification, recovery, delay in lodging of the FIR and evidentiary worth of the prosecution material require deeper appreciation of evidence, which is not permissible at the bail stage. He, therefore, maintained that sufficient material is available to constitute reasonable grounds for believing that the applicant is involved in the alleged offence and prayed for dismissal of the bail application.

5. I have heard learned counsel for the applicant, learned DPG for the State as well as learned counsel for the complainant and have perused the available record with their assistance. At the bail stage, the Court is required to undertake only a tentative assessment of the material collected during investigation in order to ascertain whether there exist reasonable grounds for believing that the accused is connected with the commission of the alleged offence or whether the material calls for further inquiry within the contemplation of Section 497(2), Cr.P.C. A deeper appreciation of evidence,

which may prejudice either side at trial, is neither warranted nor permissible at this stage.

6. Tentative assessment of the record reflects that the applicant is admittedly not nominated in the FIR. The occurrence was reported against three unidentified persons whose faces, according to the complainant himself, were covered with cloth/towels. Despite such position, after the applicant was subsequently brought within the fold of investigation, no test identification parade was conducted before a Magistrate. In *Farman Ali v The State* 1997 SCMR 971, the Honourable Supreme Court held that where the names of the culprits are not given in the FIR, holding of an identification test becomes necessary as a safeguard against false implication and as a means of connecting the genuine culprit with the occurrence. The significance of such exercise assumes greater importance in the present case because the prosecution's own version is that the perpetrators had concealed their faces.

7. The Supreme Court has again considered the effect of subsequent implication and doubtful identification in *Naveed Sattar v The State and others* 2024 SCMR 205. In that case, the accused was not initially nominated and was subsequently brought into the prosecution case through a later supplementary statement; the Supreme Court considered the evidentiary value of such subsequent implication, together with the circumstances surrounding identification, to be matters requiring further inquiry. Although every criminal case has to be determined on its own facts, the principle is relevant here because the present applicant was not named in the crime report and his alleged connection with the occurrence surfaced only subsequently during investigation.

8. There is another circumstance of considerable significance. The interim report submitted under Section 173, Cr.P.C. has been examined. It does not disclose any recovery of the robbed amount, weapon or other incriminating article from the possession of the present applicant. On the contrary, recoveries have been shown against co-accused Soomro Chandio, Qasim Chandio and Rashid Ali. Thus, whatever may ultimately be the evidentiary value of the recoveries allegedly effected from the said co-accused, no such recovery is presently available against the applicant before this Court.

9. In *Abdul Saleem v. The State* 1998 SCMR 1578, the Honourable Supreme Court granted bail where, inter alia, the accused was not named in the FIR and no recovery had been effected from him, holding that the matter required further inquiry. Similarly, in *Akhtar v Khwas Khan and another* 2024 SCMR 476, the FIR had been lodged against unknown persons and the incriminating recovery relied upon by the prosecution was not effected from the petitioner himself. The Supreme Court found the available

material insufficient, on tentative assessment, to exclude the case from the ambit of further inquiry under Section 497(2), Cr.P.C. The latter authority is particularly instructive for present purposes because a recovery attributed to another accused cannot, without further connecting material, automatically be treated as a recovery from or direct incriminating circumstance against the applicant.

10. It is true that the allegations contained in the FIR are serious and relate to an armed robbery of a substantial amount. Seriousness of an allegation, however, cannot substitute the statutory requirement of reasonable grounds connecting a particular accused with the commission of the offence. In *Salman Mushtaq and others v The State through P.G. Punjab and another* 2024 SCMR 14, the Honourable Supreme Court reiterated that atrociousness or gravity of an offence, by itself, is not sufficient to refuse bail where the nature of the material produced in support of the accusation gives rise to doubt and requires further inquiry. The Court is, therefore, required to examine not merely the nature of the accusation but also the quality of the material presently available against the particular accused seeking bail.

11. The prosecution case also refers to CCTV recording of the occurrence. However, at least from the material presently placed before this Court for purposes of bail, the applicant was neither named in the original crime report nor identified through a judicial identification parade. Whether the CCTV material is capable of establishing the identity of the applicant, whether it has been properly collected and preserved, and what evidentiary value can ultimately be attached thereto are matters to be determined by the trial Court upon production and proof of the relevant evidence. In *Naveed Sattar* (supra), the Supreme Court observed that photographs and other technological material relied upon to connect an accused with an offence have to acquire evidentiary worth in accordance with law and cannot automatically be treated as conclusive of guilt at the bail stage. Likewise, in *Akhtar v. Khwas Khan* (supra), the available CCTV material, in the circumstances of that case, did not prevent the matter from being treated as one of further inquiry.

12. This Court had also called for the Criminal Record Office report of the applicant. The CRO report produced before the Court is clear and does not disclose any previous criminal involvement of the applicant. Thus, nothing has been shown from the criminal record presently before this Court suggesting that the applicant is a previous convict or possesses any antecedent of criminal activity. Though absence of previous criminal record by itself does not entitle an accused to bail, it is nevertheless a relevant attending circumstance when considered cumulatively with the fact that the applicant is not nominated in the FIR, no recovery has been effected from him and no identification parade was held.

13. Investigation, insofar as the present stage is concerned, has culminated in submission of an interim report under Section 173, Cr.P.C., and the applicant is presently confined in judicial custody. He is, therefore, no longer required for custodial investigation. In *Saeed Ahmed and another v The State* PLD 2024 SC 1241, the Honourable Supreme Court, while dealing with the question of bail, took into account that investigation had been completed, the accused were not required for further investigation and no incriminating weapon had been recovered from them, and reiterated that bail ought not to be withheld merely as a punitive measure where the available material calls for further inquiry.

14. The expression "*further inquiry*" employed in Section 497(2), Cr.P.C. does not mean that the Court must reach a conclusion regarding innocence of the accused. What is required is that, upon tentative assessment, there should exist a genuine question which requires further probe into the guilt of the accused and which can appropriately be determined after recording evidence. In *Akhtar v. Khwas Khan and another* (2024 SCMR 476), the Supreme Court explained the concept of further inquiry as an examination of the material for the purpose of determining whether reasonable doubt or suspicion exists regarding the involvement of the accused. Once such a situation emerges, the matter attracts Section 497(2), Cr.P.C.

15. In the present case, the cumulative effect of (i) non-nomination of the applicant in the FIR; (ii) the prosecution's own assertion that the offenders had concealed their faces; (iii) absence of any test identification parade; (iv) absence of any recovery whatsoever from the possession of the applicant as reflected from the interim report under Section 173, Cr.P.C.; (v) recoveries having instead been attributed to co-accused Soomro Chandio, Qasim Chandio and Rashid Ali; (vi) the clear CRO report showing no previous criminal involvement; and (vii) completion of the material part of investigation and the applicant's confinement in judicial custody, is sufficient, at this tentative stage, to bring his case within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C.

16. I am, therefore, of the tentative view that presently there are no sufficient reasonable grounds for believing that the applicant is guilty of the alleged offence so as to justify his continued detention, whereas sufficient grounds exist for further inquiry into his guilt. Needless to observe that the truth or otherwise of the prosecution allegations, the identity of the perpetrators, the evidentiary worth of the CCTV footage, the alleged recoveries from the co-accused and the precise role, if any, of the applicant are matters exclusively for the learned trial Court to determine after recording evidence, uninfluenced by any observation made herein.

17. Consequently, the instant Criminal Bail Application is allowed. Applicant/accused Shahid Bhatti son of Muhammad Akram Bhatti is admitted to post-arrest bail in Crime No.103 of 2026 of Police Station Jhudo, subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Lac only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. However, in the event that the applicant is found misusing the concession granted by this order, the learned Trial Court shall be at liberty to recall the bail of the applicant and proceed in accordance with law.

18. It is clarified that all observations contained herein are strictly tentative in nature, confined only to the disposal of the present bail application, and shall not influence the learned trial Court while deciding the case on merits.

The Criminal Bail Application stands disposed of in the above terms.

JUDGE

****Faisal****