

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2313 of 2026

Applicants : 1. Muhammad Khan
son of Naimatullah Khan
2. Muhammad Hassan @ Shakir
son of Atta Muhammad
3. Noor Ahmed @ Noorullah
son of A. Ambiya
4. Dad Muhammad
son of Wali Muhammad
through Mr. Muhammad Nawaz
Chahani Advocate

The State : Through Mr. Sharaf-u-Din Kanhar,
Assistant Prosecutor General, Sindh

Date of hearing : 01.10.2026.

Date of decision : 01.10.2026.

ORDER

Jan Ali Junejo, J.- This Order shall decide the post-arrest Criminal Bail Application filed by Applicants 1) Muhammad Khan son of Naimatullah Khan, 2) Muhammad Hassan @ Shakir son of Atta Muhammad, 3) Noor Ahmed @ Noorullah son of A. Ambiya and 4) Dad Muhammad son of Wali Muhammad under Section 497, Cr.P.C., arising out of FIR No.340 of 2024, registered at Police Station Tipu Sultan, Karachi, for offence punishable under Section 397, 34 PPC. The Applicants seek bail after arrest, being aggrieved by the Order dated 21.08.2025, passed by Additional Sessions Judge-VIII Karachi South, whereby, their earlier bail plea (Bail Application in Sessions Case No. 123/2025) was declined.

2. Brief facts of the prosecution case, as narrated in the FIR lodged by the complainant Muhammad Asim Malik, are that on 12.09.2024, at about 03:45 a.m., he was sleeping at his house when four armed persons, wearing shalwar qameez, forcibly entered by breaking the main gate. They awakened the complainant and his family at gunpoint and gathered them in the TV lounge. Two of the culprits stood guard with weapons, while the other two started searching the house. From a cupboard in the bedroom, they took away cash amounting to Rs.25,000/-, three wristwatches, three gold rings, and a pair of gold earrings. During the

occurrence, they subjected the complainant and his family to torture and threats of death while demanding more cash and gold. On being informed that nothing else was available, they demanded the keys of a vehicle, to which the complainant replied that the keys were with the driver who was not present at that time. The culprits then put the looted articles into a bag and jumped into the adjoining house, and escaped in a car parked there. Hence, this FIR.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated in collusion with the police, as they were neither nominated in the FIR nor arrested at the spot, no specific role or description was assigned to them, and no snatched or looted article was recovered from their possession. He submitted that the case requires further inquiry, as PW-1 admitted in cross-examination that no description or sketch of the accused was provided, the alleged tying of his hands was not mentioned in the FIR, no medical examination regarding assault was produced, no snatched article was recovered, and although CCTV cameras were installed around the house, the accused were not visible therein; the alleged neighbour through whom the call was made was also neither named nor examined. He further referred to the evidence of PW-4/Investigating Officer, who admitted that nothing belonging to the complainant was recovered from the applicants, the fingerprints obtained by CSU were blurred, the applicants were not produced before FSL for fingerprint examination, CSU officials were not associated as witnesses, and no application was submitted for recording their confessional statements. He also pointed out discrepancies in the evidence of the Duty Officer regarding the FIR and roznamcha entries and relied upon the admissions of PW-6 regarding infirmities in the identification parade, including arrest at police stations, non-changing of clothes, mismatch of dummies and disclosure by certain accused that their faces had already been shown to the witnesses. Learned counsel further submitted that the arrest and recovery memos were prepared at the police station and that no specific role or recovery was attributed to the applicants in the FIR, statements or identification proceedings. He also relied upon their previous acquittal in Sessions Case No.302/2025 arising out of FIR No.709/2024 and submitted that there is no independent witness or other cogent material connecting them with the present offence. He contended that the applicants have remained incarcerated since 09.10.2024 without conclusion of trial, owing inter alia to non-production of accused and the vacancy of the trial Court, causing undue hardship. Lastly, learned counsel submitted that the applicants are permanent residents of Karachi, have no criminal antecedents, are neither hardened

nor habitual offenders, and are not likely to abscond or tamper with the prosecution evidence, while one of them is the sole breadwinner of his family; hence, the cumulative effect of the above circumstances makes the case one of further inquiry under Section 497(2), Cr.P.C., warranting grant of bail.

4. Conversely, learned Assistant Prosecutor General, Sindh opposed the bail application and contended that the Applicants have been connected with the commission of offence through a properly conducted identification parade before a Magistrate, wherein they were duly identified by the Complainant. He argued that the offence falls within the prohibitory clause, involving armed robbery, and sufficient material is available on record linking the Applicants with the crime. He further submitted that the plea of false implication and alleged defects in identification are matters of trial. He lastly prayed for dismissal of the bail application.

5. I have heard the learned Counsel for the Applicant as well as Assistant Prosecutor General, Sindh and perused the available record with their assistance.

6. This Court has given anxious consideration to the submissions advanced on behalf of the parties and has examined the record with utmost care. On a tentative assessment of the material available on record, it appears that applicants were identified by the complainant, against whom no previous enmity has been alleged. The offence charged against the applicant under Sections 397, P.P.C. is of a heinous nature, carrying severe punishment, which necessitates cautious consideration before granting bail. The learned counsel for the applicants have 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 it bailable, and the Court retains discretion in granting bail based on established legal principles. Additionally, the Hon'ble Supreme Court in Mehboob-ulHassan v. The State (1995 SCMR 1013) upheld the denial of bail to an accused correctly identified in an identification parade. Likewise, in the case of Muhammad Shoaib v. The State (2018 YLR Note 120), this Court held as follows: "After his arrest identification parade of the applicant was held through PW Muhammad

Ali, who correctly identified the applicant during identification parade and stated that on 20.10.2015 at about 9:30 the accused was coming from back door of the house of Chaudhry Akhtar at PIB Colony, which is in corroboration with the statement of said PW Muhammad Ali recorded under section 161, Cr.P.C. wherein he has stated that he has seen the accused while escaping from back door of the house of the complainant”.

7. Considering the strong prima facie evidence against the applicants, including their identification in the identification parade and the presence of corroborative witness testimony, 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.

8. In light of the foregoing reasons, the present bail application filed on behalf of the Applicants, 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.

JUDGE