

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT MIRPURKHAS

Crl. Bail Application No. S-367 of 2026

Applicant	:	Islamuddin through Mr. Aijaz Ali Rajar, Advocate.
Respondent	:	The State through Mr. Neel Parkash, Deputy Prosecutor General Sindh.
Complainant	:	Abdul Wahid through Mr. Santosh Kumar Khatri, Advocate.
Date of Hearing	:	17.09.2026
Date of Order	:	17.09.2026

ORDER

Muhammad Humayon Khan, J.: This is a pre-arrest bail application under Section 498 of the Cr.P.C seeking the enlargement of the Applicant on bail in Crime No.120 of 2026 lodged at the Khipro Police Station under Sections 457, 380 and 34 of the P.P.C. The applicant had originally sought pre-arrest bail before the learned Additional Sessions Judge, Khipro, in Criminal Bail Application No.221 of 2026 which was declined and so he had filed his application before this Court.

2. The precise allegation against the applicant may be stated as follows:

- i) that during the night intervening 28/29.04.2026, after the complainant and his family members had gone to sleep, his brown buffalo, which had been tied in the courtyard of his house, was allegedly stolen;
- ii) that at about 04:00 a.m., the complainant along with his cousin Pervaiz Ali woke up upon hearing the barking of dogs and, after noticing that the buffalo was missing, allegedly followed its footprints towards Khipro Wah;
- iii) that upon reaching Khipro Wah, the complainant and his cousin allegedly saw, in the light of a torch, the present applicant Islamuddin along with co-accused Din Ali and one unidentified person; and
- iv) that the said persons allegedly crossed Khipro Wah by swimming and fled away, whereas the complainant and his cousin,

being unable to swim, could not pursue them further, whereafter the matter was reported to the police.

3. After hearing the learned Counsel for the applicant and the complainant as well as the learned Deputy Prosecutor General Sindh, and going through the record, I am inclined to grant bail for the following reasons:

- i) According to the prosecution's own case, the alleged occurrence took place at about 04:00 a.m. during the darkness of night. The applicant is stated to have been identified in the light of a torch while he, along with the co-accused and an unidentified person, was allegedly proceeding towards and crossing Khipro Wah. The circumstances surrounding such identification would require deeper appreciation of evidence at trial and cannot be conclusively determined at this tentative stage.
- ii) Admittedly, no stolen property or other incriminating article has been recovered from the possession of the applicant or at his pointation. The stolen buffalo was allegedly recovered from the possession of co-accused Din Ali @ Din Muhammad Bozdar. Such recovery from the co-accused may be relevant against him, but its evidentiary effect against the present applicant would have to be determined by the learned Trial Court after recording evidence.
- iii) The learned Court below appears to have relied upon the specific nomination of the applicant in the FIR and the statements of the prosecution witnesses recorded under Section 161 Cr.P.C. However, mere nomination has to be considered together with the circumstances in which the applicant was allegedly identified. In the present case, the identification is alleged to have taken place during darkness, through torchlight, while the accused persons were allegedly fleeing and ultimately crossed Khipro Wah by swimming. The reliability and evidentiary worth of such identification therefore call for further inquiry.
- iv) There is also a delay of about seven hours in the lodgment of the FIR. The alleged occurrence is stated to have taken place at about 04:00 a.m., whereas the FIR was lodged at about 11:00 a.m. on the same day. The effect of such delay, particularly in the circumstances surrounding the alleged identification and nomination of the applicant, is a matter which requires consideration at trial.
- v) The investigation has already been completed and the challan has been submitted before the competent Court. The applicant is, therefore, no longer required for further investigation.

- vi) In view of the circumstances discussed above, particularly the nature of the alleged identification during darkness, absence of any recovery from the applicant or at his pointation, and the fact that the stolen buffalo was recovered from the co-accused, the case of the present applicant appears to be one of further inquiry within the meaning of Section 497(2) Cr.P.C.

4. For these reasons, this application is allowed and the *interim* pre-arrest bail granted to the applicant by Order dated 08.07.2026 is hereby confirmed on the surety already furnished by him. However, in the event that the applicant is found in any manner misusing the concession granted by this order, the learned Trial Court shall be at liberty to cancel his bail as per law.

5. It is clarified that the observations made above are tentative in nature and shall not prejudice the case on merits which shall be decided by the learned Trial Court independently. The learned Trial Court is directed to expeditiously proceed with the case and dispose of the same positively within three months from today.

JUDGE

****Faisal****