IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3214 of 2026

Applicant	:	Muhammad Safdar son of Ghulam Abbas Through Mr. Liaquat Ali Khan, Advocate
Respondent	:	The State *Through* Mr. R.D. Kalhoro, DAG duly assisted by Mr. Hussain Bukhsh, Special Prosecutor Pakistan Railway Police.
Date of hearing	:	29.10.2026
Date of Order	:	04.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. – Applicant Muhammad Safdar seeks post-arrest bail emanating from FIR No.75/2026, registered at Police Station Railway Cantt, Karachi, for offence under Sections 382/34 PPC, his earlier applications having been declined by the learned XIV Judicial Magistrate, Karachi South, on 20.08.2026 and the learned VI Additional Sessions Judge, Karachi South, on 16.09.2026.

2. The prosecution case, briefly stated, is that on 05.08.2026 complainant Muhammad Shamshad, an elderly resident of Sargodha, arrived at Karachi by train carrying cash amounting to Rs.14,70,000 and certain personal belongings. Having been refused accommodation at Sanober Hotel near Cantt Railway Station, he proceeded towards Gharib Nawaz Mosque, where an unidentified person allegedly snatched his cash, belongings and wristwatch and escaped. The complainant raised an alarm but could not pursue the offender owing to physical weakness. The ensuing FIR was registered against unidentified persons. During investigation, the applicant and two co-accused were arrested, whereafter the prosecution relied upon CCTV footage, identification proceedings before a Magistrate and the alleged recovery of the disputed amount from the rooftop of Sanober Hotel on the pointing of the accused.

3. Learned counsel for the applicant contends that he was neither nominated nor described in the FIR; that the CCTV footage does not clearly establish his identity; that the alleged recovery was not affected from his exclusive possession; and that the identification proceedings require evidentiary scrutiny. It is further submitted that co-accused Zulfiqar and Muhammad Asif

have already been admitted to bail and, more importantly, the allegations do not disclose the essential ingredients of Section 382 PPC. Conversely, learned Special Prosecutor, supported by learned D.A.G., opposes bail, emphasizing that the applicant was specifically identified by the complainant, assigned the principal role of taking away the property, and connected with the occurrence through the alleged recovery.

4. Heard and perused the record. The identification-parade memorandum prima facie attributes to the applicant the actual removal of the complainant's cash and belongings. The alleged recovery constitutes an additional incriminating circumstance. His position is, therefore, distinguishable from that of the co-accused admitted to bail, and the principle of consistency cannot be invoked mechanically. Nevertheless, neither identification nor recovery, however relevant to the alleged theft, necessarily establishes the aggravated offence under Section 382 PPC. The distinction assumes significance because the provision requires proof of preparation for causing death, hurt, restraint or fear thereof, undertaken to facilitate the theft, escape or retention of stolen property. The foundational allegations, as presently disclosed, do not expressly attribute such preparation to the applicant, nor does the investigation material sufficiently demonstrate its existence. The complainant's inability to pursue the offender owing to physical weakness cannot, by itself, constitute the requisite statutory preparation.

5. The legal characterization of the occurrence is consequently open to legitimate inquiry. Whether the prosecution can establish an offence under Section 382 PPC or whether the allegations, if proved, attract the ordinary provisions relating to theft is a question requiring evidence. The distinction is material, Section 382 PPC carrying imprisonment extending to ten years and consequently attracting the prohibitory clause of Section 497(1) Cr.P.C., whereas ordinary theft does not. The principles expounded in PLD 1995 SC 34[1] and PLD 2017 SC 733[2], governing bail in offences outside the prohibitory clause, are therefore relevant to the extent that the applicability of the aggravated provision itself remains doubtful. The applicant's entitlement, however, principally rests upon Section 497(2) Cr.P.C., which operates independently where the available material calls for further inquiry.

6. The Courts below appear to have treated the identification and recovery as sufficient without adequately examining the indispensable ingredients of the offence charged. The evidentiary significance of those circumstances remains intact; their legal sufficiency to establish the aggravated offence is,

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[1] *Tariq Bashir and 5 others v. The State.*
[2] *Muhammad Tanveer v. The State & another.*

however, another matter. The applicant's culpability under Section 382 PPC thus requires further inquiry rather than resting upon reasonable grounds of the nature contemplated by Section 497(1) Cr.P.C. Continued incarceration in such circumstances would amount to treating an unresolved question of criminal liability as already determined. The Courts below appear to have treated the identification and recovery as sufficient without adequately examining the indispensable ingredients of the offence charged. The evidentiary significance of those circumstances remains intact; their legal sufficiency to establish the aggravated offence is, however, another matter. The applicant's culpability under Section 382 PPC thus requires further inquiry rather than resting upon reasonable grounds of the nature contemplated by Section 497(1) Cr.P.C. Continued incarceration in such circumstances would amount to treating an unresolved question of criminal liability as already determined.

7. Consequently, this application is **allowed**. The applicant, **Muhammad Safdar** is admitted to post-arrest bail upon furnishing solvent surety in the sum of **Rs.100,000/- (Rupees One Hundred Thousand only)** and a P.R. bond in the like amount to the satisfaction of the learned trial Court. Any misuse of the concession shall entail consequences in accordance with law.

8. The foregoing observations are tentative, confined exclusively to the question of bail, and shall not prejudice the independent determination of the case on merits.

J U D G E

Shahbaz