IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1050 of 2026

Applicants: Tars Muhammad s/o Mushir Ahmed (applicant no.1) and Abid Hussain s/o Qaimuddin (applicant no.2) through M/s. Muhammad Ramzan Panhwar and Gahi Khan Jatoi advocates.

Respondent: The State through Mr. Irfan Ali Talpur, Deputy Prosecutor General Sindh, along with IO Mubeen Ali, Game Officer Kotri Jamshoro and Mr. Ghaffar Khan Jamali, Game Inspector Wildlife, Jamshoro.

Date of hearing: **01.09.2026**
Date of Order: **01.09.2026**

Date of Reasons: **28.10.2026**

O R D E R

JAWAD AKBAR SARWANA, J:- Through this criminal bail application no. S-1050/2026, the applicants/accused above-named seek post-arrest bail in Crime No.04 of 2026, registered at Wildlife Station, Taluka Kotri, District Jamshoro, under Sections 9(1) (c) (d), 31, 32 (b), 76 of the Sindh Wildlife Protection, Preservation, Conservation and Management Act, 2020 (SWPPC&M Act, 2020) and Schedule iv, SWPP&M Act, 2020, Rule 56(2), 57(6) of the SWPP&MR-2022. The learned Additional Sessions Judge-II, Jamshoro, dismissed their earlier bail application vide order dated 27.07.2026.

2. The background of the matter as set out in the FIR, for the sake of brevity, is not reproduced and may be read in with this paragraph in ad seriatim.

3. I have heard the learned counsel for the parties, reviewed the record, and examined the legal framework applicable to the case.

4. A tentative assessment of the material on record reveals that the applicants are primarily engaged as commercial drivers, operators, or vehicle owners carrying loads on hire. The FIR does not specifically attribute direct tree-felling to individual applicants, nor does it record precise

inventories, measurements, or immediate cutting implements recovered from their persons in a manner that conclusively establishes mens rea at this preliminary stage. Whether the timber was unlawfully extracted from the protected limits of the Khirthar National Park by these specific applicants or whether they were merely third-party transporters unaware of the cargo's precise origin are matters requiring deeper inquiry during trial under sub-section (2) of Section 497 Cr.P.C.

5. Furthermore, Section 9(1)(c) of the penal provisions invoked under the Sindh Wildlife Protection Act, 2020 is punishable with imprisonment up to six months with fine and is bailable one. While Section 9(1)(d) carries punishment up to five years with a fine. It is important to note that sections 31 and 32(b) of the said Act are procedural/police powers and do not prescribe punishment. Whereas, section 76 provides that where a person commits an act prohibited under the Forest Act, 1927 in a protected area, he is deemed an offender under the Wildlife Act and the penalties under the Forest Act apply *mutatis mutandis,* which too carry six months' imprisonment or fine, or both; therefore, sections so applied do not cross the threshold of the prohibitory clause of Section 497 Cr.P.C. It is a well-entrenched principle of criminal jurisprudence, reiterated by the Honorable Supreme Court of Pakistan in **Tariq Bashir v. The State (PLD 1995 SC 34)** and **Muhammad Tanveer v. The State (PLD 2017 SC 733)**, that for offences falling outside the prohibitory clause, the grant of bail is the norm and refusal constitutes an exception.

6. Reliance is also placed on **Muhammad Shakil v. The State (PLD 2014 SC 458)**, wherein it was underscored that where an accused person's role is confined to transportation without direct nexus to the primary offence of extraction or harvesting, the question of active participation and conscious guilt warrants a thorough appraisal of evidence at trial. Additionally, the admitted absence of independent private mashirs from the locality during the transit interception, despite the thoroughfare being populated, raises lingering doubts about the recovery proceedings under Section 103 Cr.P.C.

7. The investigation qua the applicants is finalized, the vehicles and cargo are already secured in custody, and their further detention would serve no penal or investigative utility.

8. Resultantly, the instant bail application was **allowed** vide my short order dated 01.09.2026. Consequently, applicants Tars Muhammad s/o Mushir Ahmed and Abid Hussain s/o Qaimuddin were admitted to post-arrest bail in Crime No.04 of 2026 of Wildlife Station Thano Bula Khan Taluka T.B. Khan, District Jamshoro, subject to furnishing solvent surety in the sum of Rs.50,000/- each and PR bond in the like amount to the satisfaction of the learned trial Court. These are the reasons in support thereof.

9. Needless to mention, the observations recorded herein are strictly tentative and shall not prejudice or influence the mind of the learned trial Court during the adjudication of the main case on its merits.

JUDGE

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