

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.S- 757 of 2026

Applicant : Muhammad Qabil Samejo, through Mr. Ghulam Murtaza Samejo, Advocate along with Applicant

Respondent : The State through Mr. Mansoor Ahmed Shaikh, Deputy PG along with ASI Bajhi Khan of PS Ubauro

Date of Hearing : **07-09-2026**
Date of Order : **07-09-2026**

ORDER

TASNEEM SULTANA, J.- Through this Criminal Bail Application, the applicant Muhammad Qabil Samejo seeks pre-arrest bail in Crime No.151 of 2026, registered under Sections 407, 484, 406, 420, 353 and 506/2 PPC at Police Station Ubauro, District Ghotki. Earlier, his pre-arrest bail application was dismissed by the learned Additional Sessions Judge-III, Ghotki, vide order dated 03.08.2026; hence, the instant application for the same concession.

2. The detailed facts of the case are already set out in the bail application and the FIR and, therefore, need not be reproduced here.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated; that the FIR was lodged with a delay of about two days without satisfactory explanation; that no independent person was associated with the alleged sealing of the godown; that no vehicle or tractor has been shown to have been used for removal of the wheat; and that the offences invoked do not fall within the prohibitory clause of Section 497(1), Cr.P.C. He further submitted that the applicant had already approached this Court through C.P. No.D-1197 of 2026 against the Food Department concerning the action taken in respect of his business premises and wheat stock; that the case calls for further inquiry; and that the interim pre-arrest bail granted to him may be confirmed.

4. Learned Deputy Prosecutor General opposed the bail plea and submitted that the applicant had removed the seal of the godown, taken away the wheat stock and threatened the complainant with a pistol while obstructing him in discharge of his official duty. He, therefore, prayed for dismissal of the bail application.

5. Heard learned counsel for the applicant and learned Deputy Prosecutor General for the State and perused the material available on record.

6. On perusal of the record, it appears that the allegation against the applicant is that his godown, containing wheat stock, was sealed by the Food and Revenue officials and that he subsequently removed the seal and took away the wheat. However, no seizure or sealing memo was prepared at the time of the alleged sealing and record does not contain any document showing the quantity of wheat stated to have been found therein. Since the subsequent accusation itself rests upon the alleged sealing and removal of the wheat, these aspects require determination after recording evidence at trial.

7. The wheat was not alleged to have been entrusted to the applicant by the complainant or the Food Department; rather, according to the prosecution case, it was already lying in his godown. The applicability of Sections 406 and 407, PPC, therefore, requires examination in the light of evidence. No recovery of the wheat allegedly removed from the godown has been shown from the applicant. The record also reflects that, prior to registration of the FIR, the applicant had approached this Court through C.P. No.D-1197 of 2026 against the Food Department concerning the action taken in respect of his business premises and wheat stock. These aspects, when considered cumulatively, call for further inquiry within the meaning of Section 497(2), Cr.P.C., and also provide sufficient basis, at this stage, for the plea of mala fide raised by the applicant.

8. The offences under Sections 406, 407 and 506/2, PPC, though non-bailable, do not fall within the prohibitory clause of Section 497(1), Cr.P.C., while the offences under Sections 353, 420 and 484, PPC, are bailable in nature. It is well settled that in offences falling outside the prohibitory clause, grant of bail is the rule and refusal an exception. Reliance in this regard may be placed upon the case of Sheikh Abdul Raheem v. The State and another (2021 SCMR 822). The Honourable Supreme Court in the case of Muhammad Tanveer v. The State and another (PLD 2017 SC 733) has held as under:

“Once this court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497 Cr.P.C shall be a rule and refusal shall be an exception then the courts of the country shall follow this principle in its letter and spirit because principles of law enunciated by this court are constitutionally binding on all courts throughout the country including the Special Tribunals and Special Courts.”

9. In view of the above facts and circumstances, the interim pre-arrest bail already granted to the applicant vide order dated 10.08.2026 was confirmed on the same terms and conditions through short order dated 07.09.2026, and these are the reasons for the same.

Ahmad