

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.681 of 2026

Applicants : 1. Haider Zaman
2. Aziz Muhammad
Both sons of Madad Khan
through Syed Zainuddin Agha, Advocate

Respondent : The State
through Mr. Sharafuddin Kanhar, A.P.G.
Sindh.

Complainant : Nawab Khan son of Gul Ahmed Khan
Through Mr. Aijaz Muhammad Bangush,
advocate

Date of hearing : 31.03.2026.

Date of order : 31.03.2026

ORDER

Jan Ali Junejo, J. – By this order, I intend to dispose of the above captioned bail application whereby applicants Haider Zaman and Aziz Muhammad seek post arrest bail in Crime No.2105 of 2025 registered at Police Station Sachal, Karachi for offences under Sections 397 and 34 PPC. Prior to this, the applicants had sought the same relief before the learned Additional Sessions Judge-IV, Malir, Karachi, which was declined vide order dated 25.02.2026.

2. The facts relevant to the present criminal bail application are as follows:

“On the verbatim statement of the complainant that I am residing at the address mentioned in Column No. 2 along with my family and I work as a transporter. I am the owner of a vehicle bearing Registration No. BTM-846, make Toyota Yaris, model 2021, white in color, Engine No. 2A24969 and Chassis No. NSP-150-R7014967, which I had given on rent to my driver Aziz Muhammad son of Madad Khan, who was working with YAMAHA Company for pick and drop of its officers. On 30.12.2025, my driver was dropping the company officers at their homes in the said vehicle at Saadi Town Road, near Damheran Bungalow, Scheme 33, Karachi. At about 6:00 p.m., after dropping an officer at his residence, when the driver was returning, four unknown persons riding on two motorcycles suddenly intercepted him, out of whom three persons forcibly entered the vehicle at gunpoint, assaulted him, pushed him onto the rear seat, and drove away the vehicle. During the incident, they also snatched the driver’s mobile phone and wallet, which contained a copy of my CNIC, original driving licence, other documents, and Rs. 8,000/- in cash. Thereafter, they took the vehicle towards Northern Bypass and left the

driver there after rendering him unconscious. After regaining consciousness, the driver somehow informed me about the incident. At that time, my driver was unwell and had gone to the Cardio Hospital for treatment, I reported the matter within time and have now come to lodged this FIR. I state that four unknown persons have snatched my vehicle from my driver at gunpoint; therefore, legal action may kindly be taken against them, hence, this FIR”.

3. Learned counsel for the applicant has advanced his submissions with vehemence and argued, inter alia, that the applicants are innocent and have falsely been implicated in this case; that co-accused namely Ubaidullah and Samiullah have been released on bail and the case of the applicant is identical to the cases of co-accused; that no material is available on record to connect the applicant/accused with the commission of alleged offence; that no recovery has been made from explosive possession of the applicants/accused, as such, they are entitled for concession of bail.. Lastly, he prays for post-arrest bail to the applicants.

4. On the contrary, the learned A.P.G, Sindh assisted by learned counsel for the complainant supports the impugned order and contends that the robbed vehicle was recovered from the possession of applicant Hyder Zaman and applicant Aziz Muhammad being entrusted driver stands on a different footing owing to his position, which prima facie connect them to the commission of the offence thus prays that the bail of applicants may be dismissed.

5. I have heard the arguments advanced by the learned counsel for the applicant, the learned APG and learned counsel for complainant, and have perused the material available on the record with their able assistance.

6. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Additional Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. Upon a thorough and meticulous scrutiny of the case record, it is evident that robbed vehicle was recovered from the direct possession and control of applicant Hyder Zaman and applicant Aziz Muhammad being the entrusted driver stands on a different footing owing to his position. The available material sufficiently connects the Applicants with the commission of the offense. The Applicant has failed to establish grounds for further inquiry. The offence charged against the applicants 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 has 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.

7. The contention of the learned counsel for the applicants that the applicants are entitled to the concession of bail on the ground of consistency, as co-accused Ubaidullah and Samiullah have already been granted bail, is misconceived. It is trite law that the rule of consistency is applicable only when one person's case is at par with the accused whose post-arrest bail has been granted. In the instant case, the role attributed to co-accused Ubaidullah and Samiullah are clearly distinguishable from that assigned to the present applicants. Furthermore, the nature and extent of the incriminating material collected against the applicants are materially different from that gathered against co-accused Ubaidullah and Samiullah. As such, the case of the applicants is not at par with that of the co-accused.

8. The rule of consistency was explained by Hon'ble Apex Court in the case of Muhammad Atif v. The State (2024 SCMR 1071) in the following words:

"7. The rule of consistency in bail matters is attracted and applied after the grant of bail to a co-accused. Grant of bail by a court considers several factors like the contents of the FIR, the incriminating material collected by the police during investigation, the past history of the accused, etc. The grounds which form the basis for the grant of bail to a co-accused is thus the benchmark for grant of bail to the accused under the rule of consistency. Therefore, the court has to assess whether the role of the accused in the FIR, examined in the background of the material collected by the Police is the same as that of the co-accused, who has been granted bail. It is this congruence in the case of the co-accused and the accused that attracts the rule of consistency."

In light of the foregoing principles, and having found that the applicants' role and the supporting material against them are not identical to those of co-accused, the rule of consistency is not attracted in the present case. Accordingly, this contention of the learned counsel for the applicants fail.

9. Considering the strong prima facie evidence against the applicants, including the recovery of robbed vehicle, 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.

10. 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