

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-167 of 2026 (Mohsin vs. The State)

Applicant by : Mr. Abdul Hafeez Mari, Advocate.
Respondent by : Mr. Neel Parkash, D.P.G.
Date of hearing : 21.05.2026
Date of Order : 21.05.2026

ORDER

ARBAB ALI HAKRO, J.: The applicant, Mohsin s/o Roshan, seeks his release on post-arrest bail under Section 497 Cr.P.C. in Crime No.03 of 2025 registered at Police Station Khahi for offences under Sections 380, 457, 427 PPC. His earlier bail plea (Criminal Bail Application No. 103/2026) was declined by the learned Additional Sessions Judge, Khipro, vide order dated 10-04-2026, after which he invoked the jurisdiction of this Court.

2. The prosecution case, as set out in the FIR, is that on 21.01.2025 at 2:30 a.m., applicant Mohsin s/o Roshan Mari, armed with a pistol after climbing the wall of FAS Bhit Bhaiti School, committed theft of one Osaka battery 100 Walt, a controller, an inverter, and a first-aid box, and also tore the school's record. He was identified by the school watchman, namely Abdul Shakoor s/o Abdul Sattar, and on his information, complainant Mir Alam Mari lodged the instant FIR. After completing the investigation, the police submitted a challan, showing the applicant as an absconder. The learned trial court, after necessary formalities, declared him a proclaimed offender. Subsequently, on 04-02-2026, the police arrested him; hence this bail application.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in this case due to enmity; that nothing was recovered from the applicant's possession or pointation; that the story narrated in the FIR is unbelievable and does not appeal to a prudent mind; that the applicant was unaware of the instant crime, hence he was not a

fugitive from justice; that the applicant is confined in jail and not required for investigation; that the alleged offence does not fall within the ambit of the prohibitory clause of section 497(1) Cr.P.C. Lastly, he prayed for the grant of bail to the applicant.

4. Conversely, learned Deputy Prosecutor General opposed the bail application, submitting that the applicant is nominated in the FIR with specific role of committing theft of certain articles so also he remained absconder for a considerable time, hence he prayed for dismissal of the bail application.

5. I have heard learned counsel for the parties and examined the available material. The prosecution's case hinges on the testimony of the sole eyewitness, namely Abdul Shakoor s/o Abdul Sattar, the school watchman, who, as per the F.I.R., identified the applicant under the bulb light at the time of the alleged offence, i.e., 2:30 a.m (night time). However, there is nothing on record showing how he identified the applicant by name and parentage, and he remained silent throughout the episode. Such conduct of the sole eyewitness requires evidence at trial.

6. Furthermore, there is no recovery of the alleged stolen articles from the applicant's possession or custody. The alleged offence does not fall within the ambit of the prohibitory clause of section 497(1) Cr.P.C, where the grant of bail is the rule and refusal is the exception.

7. Although it has been argued by learned D.P.G that the applicant remained an absconder for a considerable time and is therefore not entitled to the grant of bail, it is now well settled that mere abscondance of an accused does not disentitle him to the relief of bail if, otherwise, he is entitled to the said concession on merits. Reference in this context may be made to the cases reported as "The State vs. Malik Mukhtar Ahmed Awan" (1991 SCMR 322), "Mitho Pitafi vs. The State" (2009 SCMR 299) and "Qamar alias Mitho vs. The State and others (PLD 2012 Supreme Court 222).

8. Furthermore, the case has already been challaned, and the applicant is facing trial, and no fruitful result will come from keeping the applicant behind bars for an indefinite period.

9. In the circumstances, the applicant has made out a case for the grant of bail. The instant bail application is allowed, and the applicant/accused is granted post-arrest bail, subject to 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. These are the reasons for the short order announced on 21.05.2026.

10. The observations made herein are tentative and shall not prejudice the trial Court in any manner.

JUDGE

Saleem