

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Bail Application No. S-287 of 2026

Applicant: Muhammad Asif s/o Muhammad Sachal through Mr. Dilawar Hussain Panhwar, advocate.

Complainant: Muhammad Yameen s/o Din Muhammad.

Respondent: The state through Mr. Dhani Bux Mari, Assistant P.G.

Date of Hearing: 13.07.2026

Date of Order: 13.07.2026

ORDER

Khalid Hussain Shahani, J: - Applicant Muhammad Asif seeks pre-arrest bail in connection with Crime No.27/2026, registered under Section 381-A PPC of Police Station Mehmoodabad, his identical prayer having earlier met with rejection at the hands of the learned Additional Sessions Judge-II, Mirpurkhas, vide order dated 19.05.2026.

2. The prosecution narrative, as unfolded through the First Information Report, discloses that the complainant, owner of a Honda CD-70 motorcycle, had, on the intervening night of 11.04.2026, returned to his residence from his sweet shop situated near Hashim Nagar and parked the said conveyance outside his house at about 2120 hours, securing it before retiring indoors. Upon emerging at about 2150 hours, he discovered the motorcycle bearing Registration No. HBS-7855, Chassis No. CA-954583, Engine No. 8607411, Black in color, Model 2016 conspicuously absent, giving rise to the inference that persons unknown had spirited it away. Despite diligent search by the complainant and his family, the vehicle's whereabouts remained

undiscovered until his brother, Muhammad Ramzan, and one Nazar Muhammad @ Nadir Rajput, apprised him of having witnessed an unidentified individual making off with the motorcycle, whereupon the complainant proceeded to lodge the F.I.R.

3. Learned counsel for the Applicant, in the course of his submissions, contended with considerable force that his client has been enmeshed in these proceedings on wholly fictitious grounds, his name being conspicuously absent from the F.I.R and his implication resting entirely upon a supplementary statement recorded after an inordinate and unexplained lapse exceeding four days. He drew attention to the circumstance that although the incident is alleged to have occurred on 11.04.2026, the F.I.R was not registered until 19.04.2026, a delay of nearly eight days shrouded in silence as to its cause. He further pressed that the Investigating Officer's failure to produce the Applicant before a court of competent jurisdiction for identification purposes brings the matter squarely within the four corners of Section 497(2), Cr.P.C, thereby entitling the Applicant to the concession of bail.

4. Learned Assistant P.G, appearing on behalf of the State, resisted the application with equal vigor, submitting that notwithstanding the omission of the Applicant's name from the F.I.R, the investigation had culminated in the recovery of the stolen motorcycle, together with two other stolen conveyances, from the Applicant's otaq/inn, and accordingly prayed for dismissal of the application.

5. This Court has bestowed anxious and deliberate consideration upon the rival contentions urged at the Bar, and has subjected the record line by line to close and unsparing scrutiny. What emerges from this exercise is not a case resting upon firm evidentiary foundations, but one riddled with infirmities that strike at its very root. The Applicant's name, it bears emphasis, is conspicuous by its absence from the F.I.R, the first and most contemporaneous account of the occurrence and admittedly no identification parade was ever held before a court of competent jurisdiction to lend credence to his subsequent implication, a lapse that learned counsel has, with justification, placed at the forefront of his submissions. Compounding this infirmity is the F.I.R's own registration eight days after the alleged occurrence, unaccompanied by any explanation for the delay and, tellingly, naming no accused whatsoever. It was only upon recording of the complainant's statement under Section 162, Cr.P.C on 23.04.2026, nearly a fortnight after the event that the Applicant's name emerges for the first time, in curious tandem with the alleged recovery of the motorcycle, together with two others, from his purported otaque/inn. That this otaque even exists is a proposition emphatically denied by learned counsel, who characterizes the entire sequence as a prosecution-orchestrated afterthought rather than a genuine investigative breakthrough.

6. More troubling still is the internal contradiction that pervades the prosecution's own case. The memo of recovery would have this Court believe that the complainant and the prosecution witnesses identified the Applicant, at the very site of recovery, as

the selfsame "Asif" they sought and yet, notwithstanding this purported identification, he is said to have slipped away and eluded apprehension at that very moment. Such a narrative strains credulity: identification and escape, occurring in the same breath, sit uneasily together and invite grave suspicion as to their veracity. Equally troubling is the origin of the Applicant's name itself, traceable not to the F.I.R but to witnesses who, on their own account, claimed only to have seen unidentified culprits absconding with the motorcycle, persons whose features, by their own admission, were never fixed with certainty at the time. Whether this edifice of identification and recovery can withstand the rigors of trial, or whether it will dissolve under cross-examination as a belated construct designed to retrofit culpability onto the Applicant, is a question this Court need not, and indeed must not, resolve at this preliminary stage. It suffices to observe that the offence charged does not fall within the prohibitory clause of Section 497(1), Cr.P.C, and that the investigation, having culminated in the report under Section 173, Cr.P.C, no longer requires the Applicant's custodial presence for any legitimate investigative purpose.

7. In view of the foregoing analysis, an analysis that lays bare a prosecution case built not upon the bedrock of contemporaneous accusation but upon a sequence of belated disclosures, unexplained delays, and internally inconsistent claims of identification, this Court is firmly persuaded that the matter against the Applicant falls squarely within the contemplation of Section 497(2), Cr.P.C., demanding nothing less than further inquiry into the true extent of his culpability. The

infirmities catalogued above are not peripheral irritants capable of being brushed aside; they go to the very heart of the prosecution's case and render the question of guilt one that only a full-dressed trial, and not the truncated proceedings at this stage, can properly resolve. Accordingly, the instant bail application is allowed, and the interim pre-arrest bail earlier granted to the Applicant vide order dated 01.06.2026 is hereby confirmed, subject to the same terms and conditions as originally imposed.

8. It is clarified, for the avoidance of doubt, that the observations made hereinabove are of a tentative character, confined to the limited purpose of deciding the question of bail, and shall not be construed as an expression of opinion on the merits of the case, nor shall the same operate to the prejudice of either party at trial.

9. The instant Criminal Bail Application stands disposed of in the terms afore stated.

JUDGE

"Chander Kumar"