

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-144 of 2026

Applicants: 1. Hakim son of Mohkamuddin,
2. Nanghar son of Mohkamuddin,
3. Mast Ali son of Nangar.
Through Mr. Yar Muhammad Mangrio, Advocate.

Complainant: Mst. Kazbano wd/o Mehrab (expressed her full confidence upon learned State counsel).

Respondent: The State
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of Hearing: 13.07.2026.

Date of Order: 13.07.2026.

ORDER

Khalid Hussain Shahani, J.:- The applicants, Hakim, Nanghar, and Mast Ali, seek confirmation of the pre-arrest bail already extended to them in Crime No. 27 of 2026, registered at Police Station Khipro for offences punishable under Sections 452, 381-A, 380, 427, and 34, P.P.C., their identical prayer having met with rejection at the hands of the learned Additional Sessions Judge, Khipro, by order dated 20.02.2026.

2. The prosecution narrative, as it emerges from F.I.R. No. 27/2026 lodged on 28.01.2026 at 1730 hours, discloses that on 20.01.2026 the complainant Kazbano, accompanied by her nephew Deen Ali and her brother-in-law Mumtaz Ali, journeyed from Khipro to their native village. Upon arrival at her residence, she is alleged to have witnessed and identified the accused namely Chakar, brandishing a pistol; Muhammad Bux, wielding a hatchet; Hakim, likewise armed with a pistol; and Ahmed Bux, Nangar, and Mast Ali, who bore no weapons in the act of loading four ceiling fans, four Osaka batteries of 150 volts each, one hand water pump, and several wooden poles (bans),

collectively valued at Rs. 200,000/-, onto a phatta rickshaw, having already committed theft of the said articles. Upon the complainant party raising an alarm of "thief, thief," the accused are said to have decamped eastward with the stolen property. On entering the house thereafter, the complainant discovered that the landhi had been demolished. She thereupon apprised her relatives and the local populace of the incident and moved an application under Section 22-A, Cr.P.C. before the competent Court, pursuant to whose directive the instant F.I.R. was set into motion.

3. The record reveals that upon notice, the complainant appeared on 14.05.2026 and unreservedly reposed her confidence in the learned State counsel to represent her interests.

4. Learned counsel for the applicants submits with conviction that his clients have been enmeshed in this prosecution through mala fide design; that the F.I.R. suffers from an unexplained and inordinate delay of some eight days, a lapse that has eroded the very sanctity of the prosecution's version, more so given that the complainant claims to have identified the accused at the moment of occurrence itself. He further urges that the parties are bound by close ties of kinship and shared residence within the same village, and that the offences alleged do not attract the prohibitory rigours of Section 497, Cr.P.C. He accordingly prays that the interim pre-arrest bail already granted be confirmed.

5. Learned Deputy Prosecutor General, appearing on behalf of the State, resists this prayer with equal force. He contends that the applicants stand specifically named in the F.I.R. with distinct roles assigned to each and were positively identified by the complainant. He submits further that the delay in lodging the F.I.R. stands adequately accounted for, the complainant having first approached the competent Court under Section 22-A, Cr.P.C., whose order alone set the present prosecution in train. He therefore prays for outright dismissal of the application.

6. I have accorded the submissions of learned counsel for the applicants and the learned Deputy Prosecutor General my anxious

consideration, and have scrutinized the record with the diligence the occasion demands. The delay of about eight days in setting the criminal law into motion, notwithstanding the complainant's professed knowledge of the applicants' identity from the very outset, raises a question that can only be authoritatively resolved through the crucible of trial. This Court is fortified in its view by the settled proposition that delay in lodging an FIR is "usually caused due to factors i.e. deliberation, negotiation, discussion," and where left unexplained, such delay has consistently been held fatal to the spontaneity that ordinarily lends assurance to a prosecution case. It has likewise been held by the Supreme Court that even a delay of a mere ten to eleven hours affords sufficient time for deliberation and consultation where no explanation is forthcoming (PLJ 2008 SC 269), a fortiori where, as here, the delay extends to eight full days without satisfactory justification. It bears further emphasis that the parties are close relatives sharing a common village, and that the offences alleged fall outside the prohibitory embargo of Section 497, Cr.P.C. The investigation stands concluded, the final report has been laid before the trial Court, and the applicants have, without exception, submitted themselves to the due process of law. Nothing on the record suggests that the applicants have abused the concession of interim pre-arrest bail, obstructed the investigative process, or sought to browbeat or influence the prosecution witnesses. It remains an axiomatic principle of criminal jurisprudence that bail is the rule, and its denial the exception.

7. In light of the foregoing, the complicity of the applicants in the offence alleged remains, at this juncture, veiled in uncertainty, bringing their case prima facie within the ambit of "further inquiry" contemplated under Section 497(2), Cr.P.C. The ultimate question of their guilt or innocence must necessarily await the evidence to be adduced at trial. With the investigation concluded and the challan submitted, no salutary purpose would be served by relegating the applicants to custody at this stage.

8. For the reasons set forth above, the applicants have discharged the burden of making out a case for confirmation of bail. The interim pre-arrest bail granted to the applicants vide order dated 06.04.2026 is

accordingly confirmed, on the same terms and conditions as heretofore prevailing.

9. It is clarified, for the avoidance of doubt, that the observations contained herein are tentative in nature and shall not be construed to prejudice either party at the trial.

The application stands disposed of in these terms.

JUDGE

Adnan Ashraf Nizamani