

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-171 of 2026

Applicant: Uzair Maitlo through Mr. Muhammad Bux Bangwar, Advocate

State: Through Syed Sardar Ali Shah, Additional Prosecutor General

Complainant: Abdul Sattar S/o Muhammad Murad, by caste Ujjan through Mr. Muhammad Yaseen Khaskheli, Advocate

Criminal Misc. Application No. S-371 of 2026

Applicant: Abdul Sattar Ujjan, through Mr. Muhammad Yaseen Khaskheli, Advocate

State: Through Syed Sardar Ali Shah, Additional Prosecutor General

Date of Hearing: 02-07-2026 & 06-07-2026

Date of Order: 06-07-2026.

ORDER

Zulfiqar Ali Sangi, J.- Through this common order, I propose to dispose of Criminal Bail Application No. S-171 of 2026, filed by applicant/accused Uzair Maitlo son of Yousif under Section 497, Cr.P.C., seeking the concession of post-arrest bail, as well as Criminal Miscellaneous Application No. S-371 of 2026, instituted by applicant/complainant Abdul Sattar son of Muhammad Murad under Section 497(5), Cr.P.C., seeking cancellation of the pre-arrest bail granted to respondent/accused Ghulam Murtaza son of Abdullah (who, in the subsequent statement of the complainant, has been referred to as Ranjhan alias Ranjho). Since both matters arise out of one and the same FIR, bearing No.131 of 2025, registered at Police Station Babarloi, District Khairpur, for offences punishable under Sections 397 and 398, PPC, involve common questions of law and fact and rest upon an identical factual foundation, the same are being disposed of through this consolidated order.

2. Succinctly stated, the prosecution case, as reflected from the record, is that complainant Abdul Sattar lodged the subject FIR on 30.08.2025 alleging therein that during the intervening night of 20/21.08.2025, while he, his brother Badaruddin and his brother Police Constable Dhani Bux were proceeding on separate

motorcycles from Khairpur towards Therhi after making arrangements for meals for their sister, two unknown persons riding a motorcycle intercepted Police Constable Dhani Bux near Sajjad Hotel. It is alleged that the said unknown persons resorted to straight firearm shots with the intention to commit his murder, as a result whereof he sustained a firearm injury on his abdomen. It was further alleged that immediately after causing the injury, the assailants deprived the injured of his licensed .30 bore pistol as well as his motorcycle and fled away from the scene while extending threats to the complainant party. It is an admitted feature of the case that the FIR was registered against two unknown culprits, whose names, parentage, physical description, distinguishing features or other identifying particulars were conspicuously absent. The complainant merely stated that the culprits could be identified if brought before him again. Subsequently, during the course of investigation, applicant/accused Uzair Maitlo and respondent/accused Ghulam Murtaza came to be nominated through the further statement of the complainant recorded under Section 162, Cr.P.C.

3. Applicant/accused Uzair Maitlo was arrested during investigation and his application for post-arrest bail was declined by the learned Additional Sessions Judge-III, Khairpur, vide order dated 17.02.2026. Feeling aggrieved thereby, he has approached this Court by way of the instant application. Conversely, respondent/accused Ghulam Murtaza succeeded in obtaining interim pre-arrest bail from the learned trial Court, which concession was subsequently confirmed through order dated 27.03.2026. The complainant has now invoked the jurisdiction of this Court under Section 497(5), Cr.P.C., seeking cancellation of the said concession.

4. Learned counsel appearing for applicant/accused Uzair Maitlo, learned Additional Prosecutor General, learned counsel representing the complainant as well as learned counsel for respondent/accused Ghulam Murtaza were heard at considerable length. The available record has also been carefully examined with their valuable assistance.

5. The admitted factual position emerging from the record is that the FIR came to be lodged after an unexplained delay of about nine days against unknown persons. The prosecution has not assigned any satisfactory explanation for such delay. More importantly, neither the names, parentage, physical appearance, distinguishing marks nor any other identifying particulars of the alleged assailants find mention in the FIR. Although the complainant asserted that the culprits could be identified if seen again, no identification parade was ever arranged before a Judicial Magistrate in accordance with the procedure prescribed by law. Instead, after a lapse of more than three months from the occurrence, both applicant/accused Uzair Maitlo and respondent/accused Ghulam Murtaza were nominated solely through the subsequent statement of the complainant recorded under Section 162, Cr.P.C.

6. It is by now a settled principle of criminal jurisprudence that a statement recorded by the police under Section 162, Cr.P.C. does not constitute substantive evidence and is legally admissible only for the limited purpose contemplated under the law. Such statement, standing alone, cannot ordinarily furnish the sole basis for connecting an accused person with the commission of an offence where no legally recognized identification parade has been held and no independent corroborative material exists. The subsequent nomination of an accused through a supplementary statement, without any lawful identification proceedings, prima facie renders the prosecution case doubtful and brings the matter within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C.

7. Equally significant is the circumstance that the alleged occurrence admittedly took place during the dark hours of the night. Neither the FIR nor the material collected during investigation discloses the existence of any source of light which could have enabled the complainant or other witnesses to correctly identify the unknown assailants. In such circumstances, where the accused persons were admittedly strangers to the complainant party, the omission to hold an identification parade assumes considerable importance. The subsequent nomination after considerable delay, unsupported by any legally recognized identification process, creates a serious dent in the prosecution story and renders the

identity of the alleged offenders a matter requiring deeper appreciation of evidence at the trial.

8. Another important feature of the case is that no recovery whatsoever has been effected from applicant/accused Uzair Maitlo. Neither the robbed motorcycle nor the licensed .30 bore pistol allegedly snatched from the injured has been recovered from his possession. Likewise, no weapon of offence or any other incriminating article has been secured from him. Similarly, nothing incriminating has been recovered from respondent/accused Ghulam Murtaza. It is further noteworthy that the prosecution has not attributed any specific or distinct role to applicant/accused Uzair Maitlo with regard to causing the firearm injury sustained by injured Dhani Bux. At this tentative stage, the precise participation of each accused and the identity of the actual assailant are matters which can only be determined after recording evidence before the learned trial Court.

9. Learned Additional Prosecutor General and learned counsel for the complainant have argued that applicant/accused Uzair Maitlo came to be nominated after his arrest in another criminal case, whereupon the complainant recognized him as one of the culprits. Such contention, however, in the peculiar facts and circumstances of the present case, is not sufficient to overcome the legal deficiencies discussed above. The prosecution is still required to establish through legally admissible evidence the manner in which the complainant could identify the accused after such considerable lapse of time without resorting to an identification parade before a Magistrate. These aspects undoubtedly require deeper appreciation of evidence and, therefore, squarely fall within the concept of further inquiry contemplated by Section 497(2), Cr.P.C.

10. No doubt, the allegations levelled against the accused are grave in nature and relate to serious offences punishable under Sections 397 and 398, PPC. However, it is equally well settled that the gravity of an accusation, though an important consideration, cannot by itself constitute a valid ground for refusal of bail where the material available on record otherwise creates reasonable doubt

regarding the involvement of an accused or calls for further inquiry. At the bail stage, the Court is not expected to undertake a meticulous examination of evidence or record findings touching upon the merits of the prosecution case, which remain the exclusive domain of the trial Court.

11. Turning to the complainant's application seeking cancellation of the pre-arrest bail granted to respondent/accused Ghulam Murtaza, it may be observed that the principles regulating cancellation of bail are entirely distinct from those governing the initial grant of bail. It is a well-established proposition that once bail has been granted, it creates a valuable right in favour of the accused, which cannot be withdrawn lightly or mechanically. Cancellation of bail can only be justified where the order granting bail is shown to be perverse, arbitrary, capricious, illegal or suffering from patent misreading or non-reading of material available on record, or where subsequent events demonstrate that the accused has abused the concession by interfering with the course of justice, intimidating witnesses, tampering with prosecution evidence, absconding or otherwise misusing the liberty so granted.

12. In the present matter, learned counsel for the complainant has not been able to point out any subsequent event indicating that respondent/accused Ghulam Murtaza has misused the concession of pre-arrest bail after its confirmation by the learned trial Court. Likewise, no material has been brought on record to establish that the impugned order suffers from any patent illegality, arbitrariness, perversity or jurisdictional defect warranting interference by this Court under Section 497(5), Cr.P.C. The grounds urged before this Court substantially relate to the merits of the prosecution case, all of which were available before and duly considered by the learned trial Court while confirming the concession of pre-arrest bail. Such grounds, in the absence of exceptional circumstances, do not furnish a lawful basis for cancellation of bail already granted.

13. The contention advanced by the complainant that no recovery could be effected from respondent/accused Ghulam Murtaza due to the protective umbrella of pre-arrest bail is equally devoid of force. Nothing has been placed on record to demonstrate that the

investigating agency ever sought cancellation of bail on account of non-cooperation on the part of the respondent or that he deliberately obstructed the investigation or evaded recovery proceedings. Mere apprehensions or conjectures cannot substitute the legally recognized grounds required for cancellation of bail.

14. Having given anxious consideration to the submissions advanced by learned counsel for the respective parties and after tentative assessment of the material presently available on record, I am of the considered view that the case of applicant/accused Uzair Maitlo is one falling within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C., thereby entitling him to the concession of post-arrest bail. Simultaneously, no exceptional circumstance, subsequent event or legal infirmity has been demonstrated which may justify cancellation of the pre-arrest bail already granted to respondent/accused Ghulam Murtaza.

15. Consequently, Criminal Bail Application No. S-171 of 2026 is allowed. Applicant/accused Uzair Maitlo son of Yousif is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court. Simultaneously, Criminal Miscellaneous Application No. S-371 of 2026, filed by the complainant under Section 497(5), Cr.P.C. seeking cancellation of the pre-arrest bail granted to respondent/accused Ghulam Murtaza son of Abdullah, is dismissed. The pre-arrest bail already confirmed in his favour shall continue to remain operative on the same terms and conditions imposed by the learned trial Court.

16. It is clarified that all observations made herein are purely tentative in nature, confined exclusively to the disposal of the present applications, and shall not prejudice either party during trial. The learned trial Court shall proceed to decide the case strictly in accordance with law on the basis of the evidence that may be adduced before it, without being influenced in any manner by the tentative observations contained in this order.

JUDGE