

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
MIRPURKHAS**

Criminal Bail Application No.S-370 of 2026

Applicant: Ali Muhammad son of Bachal Chandio,
Through, Mr. Afzal Karim Virk, Advocate.

Complainant: Gul Hassan son of Malook Khan (*Called absent*)

The State: *Through, Mr. Neel Parkash, D.P.G.*

Date of hearing: 22.07.2026.
Date of order: 22.07.2026.

ORDER

KHALID HUSSAIN SHAHANI, J.:- Applicant Ali Muhammad seeks post-arrest bail in a case bearing Crime No. 104 of 2025, registered under Sections 397/34, P.P.C., at Police Station Tando Jan Muhammad. It is a matter of record that an earlier bid for the same relief before the learned 1st Additional Sessions Judge, Mirpurkhas, met with rejection by order dated 20.05.2026.

2. The prosecution narrative, as encapsulated in F.I.R. No. 104/2025 lodged on 22.07.2025 at 1400 hours, discloses that the complainant, Gul Hassan, having chanced upon a Facebook advertisement offering a tractor for sale, journeyed on 01.02.2022, in the company of Shoukat and Haji, to the Otaque of Ali Muhammad Chandio in Village Bachal Chandio, carrying Rs. 13,40,000/- for the purchase. It is alleged that upon the price being settled at Rs. 20,00,000/-, the applicant, along with co-accused Anwar, Hussain Chandio, and Sangi Farho, held the complainant and his companions at gunpoint, dispossessed them of the aforesaid sum, and issued dire threats to compel their departure, culminating in the lodgment of the instant F.I.R.

3. Notwithstanding repeated notices, the complainant has conspicuously abstained from appearing before this Court to substantiate his allegations.

4. Learned counsel for the applicant contends, with considerable force, that his client stands falsely implicated; that the F.I.R. suffers from an unexplained and glaring delay of three years, five months, and twenty days, a lapse that gravely undermines the prosecution's claim of spontaneity, particularly where the parties were allegedly known to one another; that the investigation stands concluded with submission of the report under Section 173, Cr.P.C.; and that the alleged offence falls outside the prohibitory embargo of Section 497, Cr.P.C. On this composite footing, he prays for the applicant's enlargement on bail.

5. Learned Deputy Prosecutor General, resisting the application, submits that the applicant's specific nomination in the F.I.R. is, by itself, sufficient to warrant dismissal.

6. Having heard learned counsel for the parties at length and having subjected the record to anxious scrutiny, this Court is persuaded that the inordinate and unexplained delay of over three years in setting the criminal law into motion, despite the complainant's assertion of prior acquaintance with the applicant casts a discernible shadow of doubt over the prosecution's version. This is a question that, in the ultimate analysis, must abide the trial, but at this threshold stage, it materially dilutes the spontaneity ordinarily expected of a genuine complaint.

7. Equally telling is the Investigating Officer's failure to trace or retrieve the Facebook advertisement, the very fulcrum upon which the prosecution's entire edifice rests as the point of first contact between the parties. Being electronic evidence readily amenable to retrieval, its conspicuous absence from the record, despite its centrality to the prosecution's case, constitutes a significant investigative lacuna that cannot be lightly brushed aside.

8. It further merits emphasis that no incriminating article, nor any portion of the allegedly robbed amount, was recovered from the applicant in the course of investigation. With the investigation now complete and the challan submitted before the Trial Court, the applicant's presence in custody serves no discernible investigative purpose, a consideration rendered all the more compelling by the fact that the offence does not attract the prohibitory clause of Section 497, Cr.P.C.

9. In light of the foregoing, the case set up by the applicant, at this prima facie stage, falls squarely within the contemplation of "further inquiry" under Section 497(2), Cr.P.C. The question of his guilt or innocence is one that can be conclusively resolved only upon the leading of evidence at trial. With the investigative process having run its course and the challan already on record, no legitimate purpose would be sub-served by his continued incarceration pending trial.

10. For the reasons recorded above, the applicant, Ali Muhammad, is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs. 50,000/- (Rupees Fifty Thousand only), together with a personal bond in the like amount, to the satisfaction of the learned Trial Court.

11. It is clarified, *ex abundanti cautela*, that the observations herein are tentative in nature and shall not be construed to prejudice either party at the trial.

The application is disposed of accordingly.

JUDGE