

**THE HIGH COURT OF SINDH, CIRCUIT COURT AT
LARKANA**

Criminal Bail Application No.S-284 of 2026
(Abdul Razzak Magsi v. The State)

Criminal Bail Application No.S-285 of 2026
(Shamsuddin Brohi v. The State)

Criminal Bail Application No.S-286 of 2026
(Riaz Hussain Magsi v. The State)

Appellants: Abdul Razzak Magsi [Criminal Bail Application No.S-284 of 2026], Shamsuddin Brohi [Criminal Bail Application No.S-285 of 2026] and Riaz Hussain Magsi [Criminal Bail Application No.S-286 of 2026] through Mr. Asif Ali Abdul Razzak Soomro, Advocate.

Respondent: The State through Mr. Sardar Ali Solangi, D.P.G. Sindh along with Sheeraz Leghari, Deputy Director and Farhan Ali, Inspector/I.O. Anti-Corruption Establishment, Larkana.

Date of hearing: 24.06.2026.

Date of Judgment: 28.07.2026.

ORDER

RIAZAT ALI SAHAR, J. Through this common order, I intend to dispose of Criminal Bail Applications Nos.S-284, S-285 and S-286 of 2026, preferred respectively by applicants Abdul Razzak Magsi, Shamsuddin Brohi and Riaz Hussain Magsi under Section 497, Cr.P.C., seeking post-arrest bail in Crime No.01 of 2026, registered at Police Station Anti-Corruption Establishment, Jacobabad, for offences punishable under Sections 409, 406, 161, 467, 469, 407 and 34, P.P.C., read with Section 5 (2) of the Prevention of Corruption Act, 1947. Since all the applications arise out of one and the same FIR, involve common questions of law and fact, are originated upon substantially similar allegations and the learned counsel for the parties have addressed common arguments, they are being disposed of by this single order.

2. Briefly stated, the prosecution case, as reflected from the FIR and material collected during investigation, is that upon approval

of the competent authorities, the Anti-Corruption Establishment conducted a raid at the office of the District Food Controller, Jacobabad, during which the official record pertaining to Government wheat stocks of different procurement and warehouse centres was secured. Physical verification and scrutiny of the record allegedly disclosed huge shortages of Government wheat at various Procurement and Wheat Procurement Centres situated in District Jacobabad. The present applicants, who at the relevant time were serving as Food Supervisors/Incharges of different procurement centres, have been specifically nominated on the allegation that, while acting in connivance with the then District Food Controller and other officials of the Food Department, they dishonestly misappropriated and embezzled Government wheat entrusted to their custody, illegally issued Government wheat to various flour mills and atta chakkis, facilitated its unlawful disposal to private agents operating within and outside the Province, received illegal gratification, fabricated official record to conceal the shortage and thereby caused colossal financial loss to the Government exchequer besides adversely affecting the public distribution system and creating artificial scarcity of wheat resulting in escalation of flour prices. During investigation, the Investigating Officer also recorded the statements of relevant witnesses under Section 161, Cr.P.C., collected documentary evidence, departmental reports, inspection notes, stock registers and other official documents, which, according to the prosecution, further substantiated the allegations against the present applicants.

3. The record further reveals that prior to their arrest, the applicants had approached the competent Court seeking the concession of pre-arrest bail, which, after hearing the parties on merits, was declined. Consequent upon dismissal of their pre-arrest bail applicants, the applicants were taken into custody; they also filed their post-arrest bail applications before the trial Court but their respective bail applications were dismissed through separate impugned orders by the learned Special Judge (Anti-Corruption), Larkana Division, Larkana. Hence, the present applications.

4. Learned counsel appearing on behalf of the applicants contended that the applicants are innocent and have falsely been

implicated due to *mala fide*, professional jealousy and departmental rivalry. He contended that the prosecution case is based upon conjectures, assumptions and manipulated departmental record without there being any direct evidence connecting the applicants with the alleged embezzlement or illegal disposal of Government wheat. According to the learned counsel, there is an unexplained delay of several years in registration of the F.I.R., which seriously impairs the credibility of the prosecution case. He further contended that the alleged shortages are based upon inconsistent inspection reports and fluctuating stock figures, whereas the official DR-I, DRC and stock reports, daily stock registers, S-I condition reports and other departmental documents demonstrate that the wheat stock was either available at the respective centres or had been lawfully disposed of under valid permits. Learned counsel further contended that the applicants, being Food Supervisors, had no financial or administrative authority to dispose of Government wheat independently, as all such powers vested exclusively with the District Food Controller. He further contended that the allegation of collusion with the District Food Controller is inherently improbable, as the applicants had themselves repeatedly submitted S-I reports highlighting negligence and irregularities on the part of the District Food Controller, who in turn had issued S-II reports against them. Learned counsel contended that the entire prosecution case rests upon documentary evidence already secured by the investigating agency, the investigation has been completed, challan has been submitted, the applicants are no more required for investigation, there is no likelihood of their absconding or tampering with prosecution evidence, and, in any event, their case squarely falls within the ambit of further inquiry as contemplated under Section 497 (2), Cr.P.C. Learned counsel lastly contended that two co-accused, namely Ghulam Mustafa Unar and Ubedullah Brohi, having been admitted to post-arrest bail by this Court through order dated 11.06.2026 in Criminal Bail Applications Nos.S-190 and S-191 of 2026 arising out of the same crime, the present applicants are also entitled to the concession of bail on the principle of consistency.

5. Conversely, learned Deputy Prosecutor General, Sindh, assisted by the Investigating Officer, vehemently opposed the applications and contended that sufficient incriminating material has

surfaced during investigation connecting each of the present applicants with the commission of the alleged offences. He contended that the applicants were entrusted with the custody, supervision and management of Government wheat stocks at their respective procurement centres and the shortages attributed to them are specific, quantified and duly supported by physical verification reports, inspection proceedings, official correspondence, statements recorded under Section 161, Cr.P.C. and other documentary evidence collected during investigation. He further contended that the offences alleged against the applicants involve organized corruption, criminal breach of trust, misappropriation of Government property and abuse of official authority resulting in colossal loss to the public exchequer and affecting food security within the Province. Learned D.P.G. contended that the pleas raised by the applicants constitute matters of defence to be examined during trial; and that no ground for further inquiry has been made out at this tentative stage. He lastly contended that the case of the present applicants is materially distinguishable from that of the co-accused who have been granted bail and, therefore, the principle of consistency has no application.

6. The Deputy Director, Anti-Corruption Establishment, District Larkana, along with the Investigating Officer, while supporting the arguments advanced by the learned Deputy Prosecutor General, submitted that the role assigned to the present applicants is entirely different from that attributed to co-accused Ghulam Mustafa Unar and Ubedullah Brohi. According to them, during investigation specific documentary evidence, stock verification reports, departmental correspondence, inspection proceedings and statements of witnesses have disclosed that huge quantities of Government wheat remained under the exclusive custody and control of the present applicants in their capacity as Centre Incharges and Food Supervisors, whereas substantial shortages and misappropriation were detected at the very centres entrusted to them. They maintained that the applicants were directly responsible for maintaining the Government wheat stock, safeguarding the entrusted commodity and ensuring its lawful disposal strictly in accordance with the prescribed procedure. It was further stated that the allegations against the present applicants pertain to extensive misappropriation, criminal breach of trust, embezzlement and abuse

of official position involving Government wheat worth millions of rupees, whereas the allegations against the co-accused admitted to bail were distinguishable both in nature and degree. They, therefore, submitted that the order dated 11.06.2026 passed in favour of the said co-accused neither creates parity nor attracts the rule of consistency in favour of the present applicants and prayed for dismissal of all the bail applications.

7. I have heard learned counsel for the applicants, the learned Deputy Prosecutor General, Sindh, as well as the Deputy Director, Anti-Corruption Establishment, District Larkana, and the Investigating Officer, who were present in Court. I have also gone through the available record, the impugned orders, the material collected during investigation and the order dated 11.06.2026 passed by this Court in Criminal Bail Applications Nos.S-190 and S-191 of 2026.

8. The principal contention advanced by the learned counsel for the applicants is that the present case calls for further inquiry on account of contradictions in the prosecution case, delay in registration of the F.I.R. and alleged inconsistencies in the departmental record. *Prima facie*, the contention does not appear to be convincing. The material available on record tentatively reflects that the present applicants were serving as Food Supervisors/Centre Incharges and were entrusted with the custody, preservation and management of Government wheat stocks lying at their respective procurement centres. During the course of inspection and physical verification, substantial shortages were allegedly detected at the centres under their exclusive supervision. The prosecution has further collected departmental inspection reports, stock verification reports, official correspondence, statements recorded under Section 161, Cr.P.C. and other documentary evidence indicating, at least tentatively, that the applicants failed to account for the entrusted Government wheat and thereby committed criminal breach of trust, embezzlement and misappropriation of Government property. The plea that the applicants merely acted under the supervision of the District Food Controller and possessed no independent financial authority also does not persuade this Court at this tentative stage. Entrustment, being an essential ingredient of Section 409, P.P.C., is not dependent upon the possession of financial or administrative

powers but upon the dominion over the property entrusted to a public servant in the discharge of official duties. The prosecution material, *prima facie*, suggests that each applicant was functioning as Centre Incharge of specific procurement centres and was directly responsible for maintaining, preserving and accounting for Government wheat lying in his custody. Whether the shortages occurred due to criminal misconduct, negligence, natural causes or any other lawful explanation constitutes a matter requiring recording of evidence during trial and cannot be conclusively determined in bail proceedings. Likewise, the defence founded upon DR-I reports, DRC reports, S-I reports, stock registers, No Due Certificates and other departmental documents cannot presently be accepted as sufficient to dislodge the prosecution case. The authenticity, evidentiary value and legal effect of such documents can only be examined after both parties have adduced evidence before the trial Court. At the bail stage, the Court is only required to tentatively assess whether reasonable grounds exist for believing that the accused are connected with the commission of the alleged offences. A meticulous examination of disputed documents and determination of their evidentiary worth would amount to conducting a mini-trial, which is not permissible while deciding an application under Section 497, Cr.P.C.

9. Equally the arguments are without substance regarding delay in registration of the F.I.R. The allegations relate to large-scale misappropriation of Government wheat discovered during departmental inspections, verification of stock and scrutiny of official record conducted after approval of the competent authorities. In cases involving financial irregularities, criminal breach of trust and corruption in public offices, the offence ordinarily comes to light only after audits, inspections or departmental inquiries. Therefore, the delay by itself does not render the prosecution case doubtful nor does it automatically bring the case within the ambit of further inquiry.

10. The learned counsel has heavily relied upon the order dated 11.06.2026 whereby co-accused Ghulam Mustafa Unar and Ubedullah Brohi were admitted to post-arrest bail. Having carefully examined the said order as well as the submissions made by the Deputy Director, Anti-Corruption Establishment and the Investigating Officer, I find that the present applicants do not stand

on identical footing. The material collected during investigation tentatively indicates that the present applicants were directly entrusted with and responsible for the Government wheat stocks at the procurement centres where substantial shortages and misappropriation have allegedly been detected. The prosecution has attributed to them a distinct, active and comparatively graver role supported by documentary evidence. The allegations against them involve specific entrustment, substantial shortages and direct responsibility for maintaining Government wheat stocks. The role assigned to the co-accused admitted to bail is, *prima facie*, distinguishable both on facts and on the evidence presently available. It is by now well-settled that the rule of consistency is not of universal application and cannot be invoked where the role, degree of participation or nature of evidence differs from one accused to another. Consequently, the order dated 11.06.2026 does not advance the case of the present applicants. It also deserves mention that the offences alleged include Section 409, P.P.C. read with Section 5(2) of the Prevention of Corruption Act, 1947, both carrying severe punishment and involving allegations of corruption, criminal breach of trust and embezzlement of Government property worth millions of rupees. Such offences not only cause colossal financial loss to the public exchequer but also undermine public confidence in the integrity of public institutions and adversely affect the system established for distribution of essential commodities. At this tentative stage, the material available on record furnishes reasonable grounds for believing that the applicants are connected with the commission of the alleged offences. The pleas raised by the defence mainly relate to disputed questions of fact which shall appropriately be determined after recording evidence during the course of trial and do not bring the case within the purview of further inquiry contemplated by Section 497 (2), Cr.P.C.

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11. For what has been discussed hereinabove, I am of the tentative view that the material collected during investigation, including the F.I.R., departmental inspection reports, stock verification reports, official correspondence and statements of prosecution witnesses, furnishes sufficient reasonable grounds for believing that the present applicants were entrusted with Government wheat stocks and are *prima facie* connected with the commission of

the alleged offences. The pleas advanced by the defence mainly pertain to disputed factual controversies and appreciation of documentary evidence, the determination whereof falls exclusively within the domain of the trial Court after recording evidence. At this stage, the material available on record does not indicate that the accusations are so doubtful, inherently improbable or lacking in substance as to attract the benefit of further inquiry within the contemplation of Section 497 (2), Cr.P.C.

12. It is equally settled that while deciding a post-arrest bail application, the Court is only required to undertake a tentative assessment of the material collected during investigation without entering into a detailed examination of the evidence or recording findings touching upon the merits of the prosecution case. The defence sought to be projected by the applicants, based upon departmental reports, stock registers, No Due Certificates and other official documents, constitutes matters requiring proof through legally admissible evidence. Acceptance of such pleas at this stage would amount to conducting a premature evaluation of evidence, which is impermissible while exercising jurisdiction under Section 497, Cr.P.C. Furthermore, the submission regarding completion of investigation and submission of challan is likewise of no avail to the applicants. Completion of investigation by itself does not create an indefeasible right to bail where the prosecution has, *prima facie*, collected sufficient incriminating material connecting the accused with offences with which they are charged. Similarly, the mere fact that the prosecution case substantially rests upon documentary evidence cannot be treated as an absolute ground for grant of bail where allegations disclose serious economic offences involving criminal breach of trust, corruption and embezzlement of public property. Such offences stand on a different footing because they not only involve abuse of public office but also directly affect public confidence in governmental institutions and result in substantial loss to the national exchequer.

13. I am also unable to subscribe to the contention that the applicants deserve the concession of bail on the principle of consistency. As already observed, the role attributed to the present applicants is *prima facie* distinguishable from that assigned to co-

accused Ghulam Mustafa Unar and Ubedullah Brohi, who were admitted to bail vide order dated 11.06.2026. The prosecution has attributed to the present applicants direct entrustment, custody and accountability of Government wheat at the centres where substantial shortages and alleged misappropriation have been detected. Thus, parity cannot be claimed merely because the crime is common, unless the role and evidence against the accused are also substantially identical. The settled principle is that consistency operates only where the accusations, degree of participation and incriminating material are alike, which, *prima facie*, is not the position in the present matter. The allegations levelled against the applicants involve large-scale embezzlement and criminal breach of trust in respect of Government wheat entrusted to public servants for safe custody and distribution. Such accusations, if ultimately proved, depict systematic abuse of official authority and misappropriation of public assets involving huge financial implications. The applicants have, therefore, failed to make out a case for the extraordinary concession of post-arrest bail. Accordingly, for the foregoing reasons, all the captioned bail applications are **dismissed**.

14. It is, however, clarified that the observations made herein are purely tentative in nature and confined solely to the disposal of the present bail applications. The learned trial Court shall decide the case strictly on the basis of the evidence that may be produced before it, uninfluenced in any manner by the tentative observations contained in this order.

JUDGE