

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

Cr. Bail Application No.S-381 of 2026
Cr. Bail Application No.S-382 of 2026

Applicant: Shuja Din Lakhair S/o Hajan @ Zahooruddin Lakhair
through Mr. Mumtaz Ali Panhwar,
Advocate.

Complainant: Through Syed Ali Raza Shah, Advocate in Criminal
Bail Application No.S-381 of 2026

The State Through Mr. Irfan Ali Talpur, Deputy Prosecutor
General, Sindh.

Date of hearing: 04.05.2026
Date of Order: 04.05.2025

ORDER

RIAZAT ALI SAHAR, J. Through this common order, I intend to dispose of the above captioned bail applications wherein Criminal Bail Application No.S-382 of 2026 of Crime No.32 of 2026 is offshoot of main case bearing Criminal Bail Application No.S-381 of 2026 of Crime No.11 of 2026, under Sections 397, 342 & 34 PPC, registered at P.S. Bhittai Nagar, Hyderabad, whereby applicant is seeking post arrest bail.

2. It is alleged that on 14.01.2026, at about 12:30 hours, the applicant/accused, in connivance with co-accused namely Ali Akbar, Sajjad, and Waseem, all being armed with pistols, unlawfully trespassed into the residential premises of the complainant situated at Bungalow No. B/120-A, Gulistan-e-Sajjad, Qasimabad, Hyderabad. It is further alleged that during the course of the incident, the accused persons wrongfully confined the family members of the complainant in separate rooms and committed robbery by taking away 25 tolas of gold ornaments, cash amounting to Rs.50,000/-, and several cheque books, including one belonging to the complainant, one in the name of the complainant's father namely Zulfiqar Ali, and another pertaining to Bank Al-Falah in the name of the complainant. It is further alleged that the accused persons also deprived the complainant party of a licensed 30-bore pistol, a Samsung mobile phone belonging to the complainant's mother along with SIM cards, an OPPO mobile phone belonging to the complainant's father along with SIM

cards, as well as certain household documents. Consequently, two separate FIRs pertaining to the said occurrence were lodged against the applicant/accused and his co-accused persons.

3. Learned counsel for the applicants has contended that the applicant/accused is innocent and has falsely been implicated in the present case owing to mala fide intentions on the part of the complainant. He submits that the name of the applicant does not transpire in the FIR and that his subsequent implication is solely based upon a statement recorded under Section 162 Cr.P.C after an unexplained delay of about fifteen days, which, according to the learned counsel, appears to have been procured at the instance of the police and carries no evidentiary value. It is further contended that the FIR itself was lodged with delay despite the police station being situated in close proximity to the place of occurrence, thereby rendering the prosecution version doubtful. Learned counsel further submits that co-accused persons have already been admitted to bail on similar allegations, thus the case of the present applicant stands on identical footing. He further argued that Section 412 PPC has subsequently been inserted in the case without any lawful justification and no incriminating recovery whatsoever has been effected from the possession of the applicant. It is also contended that the provisions of Sections 397 and 412 PPC have been misapplied, as the applicant was neither present at the place of occurrence nor attributed any specific role in the alleged robbery. Learned counsel further assailed the identification parade on the ground that the same was conducted with considerable delay and in violation of settled legal procedure, thereby rendering the identification proceedings doubtful. He submits that the learned trial Court failed to properly appreciate the material irregularities and legal infirmities favouring the applicant while declining bail. Lastly, it has been argued that the matter is still under investigation, challan has yet not been submitted, and no independent witness has been associated with the prosecution case. He, therefore, prayed for grant of post-arrest bail to the applicant.

4. Conversely, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, has vehemently opposed the instant bail application and contended that the name of the applicant transpires in the FIR with a specific role attributed to him. It has been argued that the applicant, along with his co-accused, was duly identified by the prosecution

witnesses during the course of investigation and that a crime weapon, namely a 30-bore pistol, has also been recovered from his possession. Learned counsel further contended that the prosecution version finds corroboration from the statements of the witnesses as well as the identification parade conducted during investigation, wherein the applicant was positively identified. It is thus argued that sufficient incriminating material is available on record connecting the applicant with the commission of the alleged offence, which squarely falls within the prohibitory clause of Section 497 Cr.P.C. Learned counsel, therefore, prayed for dismissal of the instant bail application.

5. I have heard learned Counsel for the parties and have perused the material available on the record.

6. Perusal of the record reflects that on the alleged date of incident, the present applicant, in furtherance of common intention with his co-accused persons, allegedly trespassed into the house of the complainant while being armed with pistols. It is further alleged that the family members of the complainant were wrongfully confined in separate rooms and various valuables, including 25 tolas of gold ornaments, cash amounting to Rs.50,000/-, cheque books of different banks, a licensed 30-bore pistol, and mobile phones belonging to the complainant's parents, were forcibly taken away. The allegations, prima facie, disclose commission of a grave and heinous offence involving armed robbery, criminal trespass, wrongful confinement, and use of deadly weapons within the sanctity of a private dwelling house.

7. Admittedly, the applicant has been nominated in the FIR with a specific role attributed to him. The prosecution case further suggests that the applicant was allegedly present at the place of occurrence in the company of co-accused persons and was armed with a pistol, thereby reflecting his active participation and common intention in the commission of the alleged offence. The nature and gravity of the accusation reveal a direct threat to the life, liberty, and safety of the complainant and his family members, and such offences, by their very character, fall within the category of heinous and non-bailable offences.

8. The record further reveals that an identification parade was conducted before the learned Magistrate during the course of investigation,

wherein the prosecution witnesses allegedly identified the present applicant as well as his co-accused persons as the perpetrators of the occurrence. The statements recorded under Section 161 Cr.P.C., coupled with the identification proceedings and other incriminating circumstances collected during investigation, prima facie connect the applicant with the commission of the alleged offence. At this tentative stage, the material available on record does not call for deeper appreciation of evidence, which is the exclusive domain of the trial Court during the course of trial.

9. Moreover, the plea of false implication on account of alleged enmity has remained unsupported by any plausible or convincing material brought on record by the applicant. No motive has been demonstrated as to why the complainant would falsely involve the applicant in such a serious offence while allowing the real culprits to escape unpunished. Prima facie, therefore, sufficient material exists on record showing the involvement of the present applicant in the commission of the alleged crime.

10. Another material aspect which cannot be ignored at this tentative stage is that the offence is alleged to have been committed inside a private residential house, where the inmates were allegedly placed under restraint and deprived of their valuables at gunpoint. Such an occurrence is not merely an offence against property, but also an offence affecting the security, privacy and sense of safety of the household. The manner of occurrence, therefore, aggravates the gravity of the accusation and distinguishes the case from an ordinary theft or simple property dispute.

11. The contention regarding delay in lodging the FIR or delay in conducting identification parade, at this stage, does not by itself demolish the prosecution case, particularly when the applicant is stated to have been nominated/connected during investigation and identified before the Magistrate. Whether such delay is fatal or whether it has been sufficiently explained are questions which require evidence and cannot be finally determined while deciding bail.

12. The argument of parity with co-accused also does not advance the case of the applicant unless it is shown that his case is identical in all material particulars. Bail granted to a co-accused cannot be mechanically extended where the role, identification, recovery, or incriminating material against the present applicant stands on a different footing. The rule of

consistency is not absolute and must yield where distinguishing features exist.

13. It is by now a settled principle of law that in cases involving heinous offences, particularly those pertaining to armed robbery, house trespass, and wrongful confinement, concession of bail is not to be extended lightly unless the case of the accused squarely falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. The august Superior Courts have consistently held that where sufficient incriminating material is available connecting the accused with the commission of a heinous offence falling within the prohibitory clause of Section 497 Cr.P.C., the concession of bail is to be withheld at the tentative stage.

14. In view of the above, I am of the opinion that no case for bail is made out by the applicant. Consequently, the present bail application vide a short order dated 04.05.2026 was **dismissed**. These are the reasons for the said short order.

JUDGE