

ORDER SHEET
THE HIGH COURT OF SINDH, MIRPURKHAS CIRCUIT

Criminal Bail Application No. S-427 of 2026

Criminal Bail Application No. S-429 of 2026

For applicant Gianchand	:	Mr. Shankar Meghwar, Advocate.
For applicant Premchand	:	Mr. Farhan Ahmed Bozdar, Advocate.
For the Federation	:	Mr. Muhammad Sabir, Deputy Attorney General
For the State	:	Mr. Neel Parkash, Deputy Prosecutor General
Date of Hearing	:	05.10.2026
Date Of Order	:	05.10.2026

ORDER

Muhammad Humayon Khan, J.: Through these connected applications, Gianchand son of Rano seeks confirmation of pre-arrest bail under section 498 Cr.P.C., whereas Premchand son of Fars Ram seeks post-arrest bail under section 497 Cr.P.C., in Crime No.09/2026, registered on 15-07-2026 at Police Station FIA Composite Circle, Mirpurkhas, under sections 406, 409, 419 and 420 read with sections 34 and 109 PPC. Since both applications arise from the same transaction and substantially overlapping material, they are being decided by this common order. The distinct roles attributed to the applicants and the different legal requirements governing their respective prayers are, however, considered separately.

2. Briefly, the prosecution case, as set out in the FIA reports placed on record, is that information was received regarding unauthorized deductions from payments due to beneficiaries of the Benazir Income Support Programme (“BISP”) at Kot Ghulam Muhammad. A raid was conducted on 15-07-2026, during which Premchand was allegedly apprehended while making deductions at the rate of Rs.100/- against every Rs.1,000/- payable to beneficiaries. A JazzCash biometric device was allegedly recovered from his possession. The prosecution states that a beneficiary and her husband identified Premchand as the person who made the deduction, and that their accounts were recorded in writing and on video. Ram Chand allegedly escaped with another device. These allegations remain to be proved at trial.

3. Gianchand is implicated as the registered retailer associated with Parkash Communication and the device allegedly recovered from Premchand. The prosecution alleges that he knowingly supplied the device for the unlawful activity. His earlier prayer for bail was declined by the learned Additional Sessions Judge-I, Mirpurkhas, on 31-07-2026. By order dated 03-08-2026, this Court admitted him to ad-interim pre-arrest bail against solvent surety of Rs.50,000/- and a P.R. bond in the like

amount, without touching the merits. Premchand remains in judicial custody and has approached this Court for post-arrest bail.

4. On 27-08-2026, the Investigating Officer was called with the police papers and a report was sought from the trial Court. On 31-08-2026, documents produced for Gianchand were taken on record. This Court also noticed the lack of effective investigative progress following a request for BISP records dated 17-07-2026 and required the Director, FIA, Hyderabad, to appear. BISP furnished a response dated 05-09-2026 identifying Gianchand in connection with Parkash Communication and the specified biometric device. On 07-09-2026, the FIA reports and accompanying documents were taken on record and copies were supplied to the applicants' counsel. The response also makes clear that certain bank records and contractual particulars were still being sought; it cannot be read as a completed transaction audit.

5. The case advanced for Gianchand is that he has been falsely implicated; that he was neither arrested at the spot nor personally found making any deduction; and that ownership or registration of a device cannot establish criminal liability for another person's conduct. Particular reliance is placed upon the record showing that the agent had been blocked from BISP services on 09-07-2026, before the raid. It is further urged that a co-accused's statement to the investigating agency cannot supply the missing proof of participation, that the relevant records are held by BISP and the bank, and that the incomplete investigation and inconsistent prosecution accounts bring the matter within further inquiry. The order dated 28-07-2026 in Criminal Bail Applications Nos. S-228, S-230 and S-231 of 2026 has also been placed on record in support of bail.

6. The case advanced for Premchand is that possession of a device does not, by itself, establish dishonest appropriation; that the alleged transactions, the status of the device and the applicability of section 409 PPC require examination; and that continued judicial custody cannot be justified merely because the investigation remains incomplete. His case also requires consideration independently of the status attributed to the registered retailer and independently of any alleged admission made during interrogation.

7. Conversely, the prosecution, through the FIA reports, opposes both applications. Its position is that Premchand was apprehended during the deduction of beneficiaries' funds, that the beneficiary and her husband directly identified his conduct, and that the recovered device is independently connected through the institutional record with Gianchand's retail business. It characterises the transaction as a coordinated misuse of the payment arrangement, rather than a private dispute about repayment. The prosecution further refers to multiple devices, outstanding investigation concerning Ram Chand, and the need to establish the complete financial

trail. Its allegations of possible interference and its request for custody must nevertheless be assessed against the material, rather than accepted as sufficient merely because they are asserted.

8. I have heard and perused the record. The questions requiring determination are whether the material supplies reasonable grounds connecting Premchand with an offence within the prohibitory clause of section 497(1) Cr.P.C.; whether Gianchand has made out a case for confirmation of pre-arrest bail upon consideration of the merits and the justification advanced for arrest; and whether the blocking record, the alleged confession or the earlier bail order materially alters that assessment. The exercise is tentative. Neither final findings of guilt nor a detailed determination of disputed evidence is permissible at this stage.

9. In *Tariq Bashir and five others v The State* PLD 1995 SC 34, the Honourable Supreme Court explained the distinction between offences falling within and outside the prohibitory clause. In the former category, refusal requires reasonable grounds connecting the accused with the offence, subject to further inquiry and the statutory exceptions; in the latter, bail is ordinarily the rule. *Sikandar A. Karim v The State* 1995 SCMR 387 explains that reasonable grounds are of a higher order than suspicion. These principles require attention to the actual material against each applicant: the seriousness of allegations involving a welfare programme cannot replace the statutory test.

10. In *Salman Mushtaq and others v The State through P.G. Punjab and another* 2024 SCMR 14, the Honourable Supreme Court emphasized a reasoned, tentative assessment of the available material when considering reasonable grounds and further inquiry. Equally, *Parveen Akhtar v The State* (2002 SCMR 1886, referring to *Asmatullah Khan v Bazi Khan and another* PLD 1988 SC 621, recognizes that the mere possibility of further investigation does not invariably establish further inquiry under section 497(2) Cr.P.C. Applied here, pending forensic and banking inquiries must be considered for their effect upon the existing case; neither their pendency nor a promise that they will eventually support the prosecution can decide the applications by itself.

11. Section 409 PPC is not confined to public servants. It also addresses criminal breach of trust by a person entrusted with property, or dominion over property, in the course of business as a banker, merchant, factor, broker, attorney or agent. The punishment extends to imprisonment for life or imprisonment of either description up to ten years, with fine. Accordingly, where its ingredients are prima facie supported, the offence falls within the prohibitory clause. At the same time, neither the public origin of the money nor possession of a biometric device automatically establishes

those ingredients. The prosecution must connect the alleged entrustment or dominion, the relevant capacity and the dishonest dealing with the property.

12. The prosecution material describes an arrangement under which a registered retailer facilitated payments due to identified BISP beneficiaries, coupled with an allegation of deliberate retention of part of those payments. The BISP letter dated 05-09-2026 supplies documentary support for the retailer-device connection. When read with the alleged recovery at the disbursement point and the beneficiary's account reported by FIA, the case presented is of misuse of dominion arising through the payment arrangement. On that combined, tentative footing, section 409 PPC cannot presently be excluded merely because the applicants are not Government employees. The prosecution must still prove the agency relationship, the relevant transactions and the dishonest appropriation; the present conclusion does not dispense with any of those requirements.

13. As regards Premchand, the case is not presented as one of mere presence in the locality. The specific allegations are his apprehension during the deduction, possession of the recovered device and identification by the affected beneficiary and her husband. Those matters, taken together, provide the prosecution's immediate factual basis for attributing personal participation. His position as the alleged operator also requires consideration with sections 34 and 109 PPC: the absence of device registration in his own name does not, by itself, answer an allegation of knowing participation in the registered agent's breach of trust. Such participation must be established and cannot be presumed from employment or association alone.

14. The blocking record warrants express consideration. The document produced by Gianchand states that the agent was blocked from BISP services on 09-07-2026, and FIA's report acknowledges blocking before the raid of 15-07-2026. The earlier interim order reproduces a different date, namely 19-07-2026; for the present assessment, the date appearing in the produced blocking record and acknowledged by FIA has been taken into account. The Court does not assume that the recovered device remained operational, was reactivated, or successfully processed a transaction after blocking. None of those propositions can be supplied by conjecture.

15. Nevertheless, the allegation against Premchand also concerns a deduction personally attributed to him by persons stated to have been present and affected. The blocking entry addresses the agent's access to BISP services; it does not itself determine whether the alleged withholding of cash occurred. The prosecution also alleges the presence of another device, although that allegation cannot be treated as proof of an alternative transaction route. Giving the blocking entry its due weight, the direct allegation of deduction and the circumstances of apprehension and recovery

remain the basis for the present tentative conclusion. The precise linkage between payment, device, credentials and retained amount must be established through the bank's authenticated records. Failure to establish that linkage may materially affect the case, including any subsequent bail assessment.

16. The prosecution repeatedly refers to an admission allegedly made by Premchand during investigation. This order does not rely upon that admission as proof against either applicant. Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, bar the relevant categories of police and custodial confessions, subject to the statutory framework. Article 40 permits only the limited portion of information distinctly related to a fact thereby discovered. In *Hayatullah v The State* 2018 SCMR 2092, the distinction between a genuine discovery and the pointing out of an already known fact was material. The alleged seizure at the raid cannot be retrospectively converted into a discovery resulting from a later confession. The case for refusal of bail must stand on material independently available.

17. Nor is a video mentioned in an investigating officer's report equivalent to authenticated electronic proof. *Ishtiaq Ahmed Mirza and two others v Federation of Pakistan and others* PLD 2019 SC 675 lays down safeguards governing the proof and reliability of audio and video material. Those safeguards are relevant to the recording, its source, authenticity and production through competent evidence. A recorded account of a beneficiary must also be distinguished from footage depicting the transaction itself. Since the forensic result is not established by the supplied reports, the recording is not treated as conclusive corroboration or as a substitute for the beneficiary's evidence.

18. On the above tentative assessment, the particular role attributed to Premchand, his alleged apprehension and recovery, and the reported direct account of the affected beneficiary furnish reasonable grounds for the accusation presently advanced under section 409 read with the participation provisions. His judicial custody and the absence of a demonstrated need for further physical interrogation are relevant considerations, but do not alone establish entitlement to bail in an otherwise supported prohibitory-clause case. This conclusion does not rest upon the alleged confession, an assumed favourable forensic report, or the general undesirability of fraud.

19. Gianchand's application requires a separate assessment. *Rana Muhammad Arshad v Muhammad Rafique and another* PLD 2009 SC 427 explains the protective and exceptional character of pre-arrest bail. That principle must be read with *Shahzada Qaiser Arfat alias Qaiser v The State and another* PLD 2021 SC 708, which requires scrutiny of the incriminating material and the justification for arrest in the constitutional setting of liberty, dignity and fair trial. *Khair Muhammad and another v*

The State through P.G. Punjab and another 2021 SCMR 130 likewise recognizes that the merits may be examined in pre-arrest proceedings. Consequently, Gianchand's prayer cannot be rejected merely for want of separately proved personal enmity or upon a formula that arrest is required in every registered case.

20. The FIA report is inconsistent concerning Gianchand's presence: one portion expressly states that he was not present at the spot, while other passages suggest that he escaped. No adverse finding of flight or presence is therefore drawn against him in this order. His case is considered on the alleged facilitation through the registered retail arrangement. The documentary connection with Parkash Communication, the recovery of its identified device from the alleged operator at the place of the reported deductions, and the prosecution's allegation of its deliberate supply for that activity, viewed cumulatively, provide the basis for a tentative inference of facilitation. Ownership alone would not be sufficient. Nor does that inference amount to a final finding that Gianchand instructed Premchand or received any part of the deducted money.

21. The blocking entry weakens any assertion that Gianchand's registered access itself processed the transaction on the raid date, but it does not, on its own, resolve the alleged supply and use of the payment apparatus in the activity reported at the spot. The matter requires investigation of the transfer and control of the device and the alleged connection with the other operator. On the prosecution's combined documentary and recovery material, I am not persuaded that the proposed investigation against Gianchand is shown to be a device merely to humiliate him. The present refusal rests upon that tentative nexus, rather than the co-accused's alleged confession or an assumption of vicarious liability. It does not authorize arrest to extract a confession or recovery of money, and any request for physical remand must be independently justified before the competent Court.

22. The order dated 28-07-2026 in the matters of Azlan, Muhammad Sohail and Zeeshan Gadi concerns FIR No.49/2026 of Police Station Satellite Town, Mirpurkhas, and a separate occurrence of 16-03-2026. It discussed, among other matters, delayed reporting, the absence of recoveries linking particular applicants, a disputed confession, changes in the investigative position and parity with another accused in that case. It does not establish parity between those applicants and the present applicants, who are accused in a different FIR on different material. Its factual conclusions cannot be transferred merely because both prosecutions concern BISP payments. For the present case, the punishment and ingredients of section 409 PPC must be assessed from the statute itself.

23. The rule favouring bail for non-prohibitory offences, affirmed in *Zafar Iqbal v Muhammad Anwar and others* 2009 SCMR 1488 and *Ali Anwar Paracha v The State and another* 2024 SCMR 1596, is not in dispute. Ali Anwar Paracha concerned a cheque-dishonour prosecution under section 489-F PPC and deficiencies in the underlying transaction. Those authorities do not create automatic entitlement where the material tentatively supports an offence punishable under section 409 PPC. Conversely, if subsequent investigation removes the factual foundation for that section, the lesser offences and the entitlement to bail will require assessment on their own footing. No finding that either applicant is a habitual offender or likely absconder is made in the absence of supporting material.

24. The Court's observations dated 31-08-2026 concerning investigative delay remain material. Dismissal of these applications does not validate that delay or permit indefinite detention while the agency seeks evidence. The Director, FIA, Hyderabad, shall ensure that the investigation is concluded promptly and that the requisite report under section 173 Cr.P.C., if still outstanding, is submitted without further avoidable delay. Particular attention shall be given to authenticated transaction records, the scope and effective time of the blocking action, the contractual retail arrangement, the beneficiary's actual entitlement and payment, and preservation and forensic examination of the original electronic material. The prosecution must investigate material favourable to the applicants as fairly as material supporting the accusation.

25. For the foregoing reasons, Criminal Bail Application No. S-427 of 2026 and Criminal Bail Application No. S-429 of 2026 are dismissed. The ad-interim pre-arrest bail granted to Gianchand by order dated 03-08-2026 is recalled. Premchand's prayer for post-arrest bail is declined. Any subsequent custody or remand shall be regulated strictly in accordance with law. The learned trial Court shall proceed expeditiously and avoid unnecessary adjournments, with full opportunity to both sides. The applicants may avail any remedy available in law on a genuinely fresh ground or material development.

26. All observations made herein are tentative, confined to the disposal of these bail applications, and shall not influence the trial Court in its independent appraisal of the evidence. Office shall place a signed copy of this order in the connected application.

The Criminal Bail Applications stand disposed of in the above terms.

JUDGE

Faisal