

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Applications No.S-978 of 2026

Applicant: Allah Jurio alias Jurio through Syed Abdul Sattar Shah, Advocate.
Complainant: Muhammad Ibrahim in person.
Respondent: The State through Ms. Rameshan Oad, Deputy Prosecutor General, Sindh.
Date of hearing: 17.08.2026.
Date of order: 17.08.2026.

ORDER

RIAZAT ALI SAHAR, J: - This order shall dispose of the instant Criminal Bail Application filed on behalf of the applicant/accused, who is facing trial in Crime No.101 of 2026 registered at Police Station Talhar, District Badin, for the offences punishable under sections 379 and 34 PPC.

2. Briefly, the prosecution case, as disclosed in the FIR, is that on 15.05.2026 at about 03:00 a.m., the complainant allegedly awoke on hearing the barking of dogs and, along with his sons, saw four persons removing service wire from poles of his house. According to the complainant, the persons were identified in the torch light as Rahib son of Khako Mallah, Allah Jurio alias Jurio and Ibrahim sons of Soomar Mallah, along with one unknown person, who allegedly removed about 120 meters of service wire and escaped on a motorcycle. The complainant stated that efforts were initially made through respectable persons for a settlement and return of the wire, but when those efforts failed, the present FIR was lodged on 01.06.2026.

3. During investigation, the applicant was arrested and a recovery of about 70/80 meters of service wire was allegedly effected from the joint possession of the applicant and co-accused on 09.06.2026. The applicant's earlier bail applications were dismissed by the learned Magistrate and thereafter by the learned 2nd Additional Sessions Judge, Badin, vide orders dated 18.06.2026 and 02.07.2026 respectively.

4. Learned counsel for the applicant has contended that the applicant is innocent and has been falsely implicated and that the prosecution story is doubtful. He has particularly emphasized the unexplained delay of about fifteen days in registration of the FIR and contended that the alleged identification of the applicant in torch light during the odd hours of night is weak and requires deeper appreciation at trial. He further contended that the alleged recovery was effected after about twenty-five days, was from the joint possession of the applicant and co-accused and comprised only 70/80 meters against the alleged theft of 120 meters, with no convincing identification that the recovered wire was the stolen property. He also contended that no independent witness was associated with the alleged recovery and that the offence under section 379 PPC does not fall within the prohibitory clause of section 497 Cr.P.C.

5. The complainant, who is present in person, has opposed the bail application and submitted that the applicant is specifically nominated in the FIR and was identified during the occurrence as well as recovery was effected from the applicant. He, therefore, prayed for dismissal of the bail application.

6. Learned D.P.G., Sindh has also opposed the bail application and contended that the applicant is directly nominated in the FIR with a specific role in the theft. She contended that the prosecution case is supported by the alleged recovery of service wire from the joint possession of the applicant and co-accused. She, therefore, prayed for dismissal of the bail application.

7. I have carefully considered the submissions advanced by learned counsel for the applicant, complainant present in person and learned D.P.G, Sindh, and have gone through the available record.

8. From a tentative assessment, certain aspects of the prosecution case require further inquiry. Admittedly, the alleged occurrence took place during the odd hours of night and the applicant is stated to have been identified in torch light, which is a piece of evidence requiring deeper appreciation at trial. The FIR was lodged on 01.06.2026 in respect of an occurrence allegedly committed on 15.05.2026, resulting in a substantial delay of about fifteen days; although the prosecution attributes the delay to efforts for settlement, the effect of such delay upon the subsequent nomination of the accused requires examination at trial. The alleged recovery was made

after about twenty-five days and consists of only 70/80 meters of wire against the alleged theft of 120 meters; moreover, the material placed before the Court does not *prima facie* establish through any distinctive identification that the recovered wire was in fact the same property allegedly stolen in the present occurrence. The recovery is also stated to have been effected from the joint possession of the applicant and co-accused, while no independent witness from the locality has been associated to lend corroboration to the alleged recovery. These circumstances, taken cumulatively, make the prosecution case one requiring further probe within the meaning of section 497 (2) Cr.P.C.

9. It is also significant that the alleged offence under section 379 PPC does not fall within the prohibitory clause of section 497 Cr.P.C. The question of guilt or innocence is to be determined after recording evidence, whereas at the bail stage only a tentative assessment is permissible. The applicant has remained in custody after completion of investigation and submission of challan, and no material has been pointed out showing that his further incarceration is necessary for investigation purposes. In the circumstances, the prosecution has not been able to remove the reasonable doubt arising from the delayed FIR, night-time identification and inconclusive nature of the alleged recovery. Consequently, the applicant has made out a case for further inquiry and is entitled to the concession of post-arrest bail.

10. For what has been discussed above, I am of the considered view that the case of the applicant calls for further inquiry within the meaning of section 497 (2) Cr.P.C. Consequently, the instant Criminal Bail Application is **allowed** and the applicant/accused is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. bond in the like amount to the satisfaction of the learned Trial Court.

11. It is clarified that the observations made herein are purely tentative in nature and shall not influence the learned Trial Court in any manner while deciding the case on its merits.

12. Criminal bail application stands **allowed**.