IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Application No. S-66 of 2026

Applicant	:	1.Muhammad Aslam s/o Noor Muhammad Bhatti, 2.Nasir Ali s/o Rehmat Ali Bhatti, through Mr.Ayaz Ali Jalalani, Advocate
Complainant	:	ASI Mirza Zafar Iqbal, Special Branch, Rohri, at Nawabshah.
Respondent	:	The State through Mr. Shams Din Raper, Deputy Prosecutor General, Sindh
Dates of hearing	:	24.08.2026 and 09.09.2026
Date of Short Order	:	09.09.2026
Date of Reasons	:	04.11.2026

O R D E R

JAWAD AKBAR SARWANA, J.- Through the captioned bail application, applicants/accused (i) Muhammad Aslam s/o Noor Muhammad Bhatti and (ii) Nasir Ali s/o Rehmat Ali Bhatti, seek post-arrest bail in Crime No.31 of 2025, registered at Police Station Railway, Nawabshah, for the offences U/Ss 379, 411, 34 PPC concerning theft and recovery of Pakistan Railway property. Earlier, the learned Ist Judicial Magistrate, Shaheed Benazirabad, rejected their first bail application No. 209 of 2025 vide order dated 19.09.2025, and the learned Ist Additional Sessions Judge/MCTC, Shaheed Benazirabad, also dismissed subsequent bail application No. 2872/2025 vide order dated 10.01.2026.

2. I have heard the learned counsel for the applicants/accused and the learned DPG Sindh and have perused the record, and my observations are as herein below.

3. The background of the matter is set out in the FIR involving the alleged theft of apparently 140 pieces of railway lines, which further information, for the sake of brevity, is not reproduced and may be read into this paragraph ad seriatim.

4. A perusal of the FIR No.31/2025 reveals that at the time of commission of the alleged crime as articulated in the said FIR, the police

party found the applicant/accused, Muhammad Aslam, was apparently operating (as a driver) the loaded container truck laden with 140 pieces of railway lines, whereas the contraband (railway lines) was allegedly loaded by Ilyas Kabari and Allah Obhayo Chandio, and the container truck itself was owned by Nasir Ali Kabari. It may be worth noting that none of the above-named accused were found carrying out the theft itself. Thus, the alleged offence was unseen, and there is no direct evidence concerning the commission of the offence, whether the present applicant, along with others, was present at the time of the offence, and whether they were seeking to take away the stolen property. Without prejudice to the foregoing, there is another aspect. According to the Mashirnama of Arrest in FIR No.31/2025, during interrogation, the applicant/accused voluntarily disclosed that on 28.08.2025, they allegedly merely loaded already railway cut bars (kati hui railway lines) from Band Section Jam Sahib onto a tractor trolley and took the same for unloading at the Otaq of Allah Obhayo Chandio. Thereafter, the alleged stolen property was re-loaded onto the container truck scheduled for transport from Nawabshah to Lahore. Be that as it may, at this stage of considering post-arrest bail, one cannot go into a deep dive into the circumstances of the incident, be it the prosecution's story or the defence theory; at least, tentatively, the above points call for further inquiry.

5. During the course of investigation, Allah Obhayo Chandio applied for pre-arrest bail before the 1st Addl. Sessions Judge/MCTC, Shaheed Benazirabad in ABA No.2659/2025, and such pre-arrest bail was granted by the trial Court vide Order dated 23.12.2025 to Allah Obhayo, on the grounds that he was shown as accused on the basis of the statement of the applicants/accused Muhammad Aslam and Nasir Ali, and his vicarious liability would be subject to trial. Thus, Allah Obhayo's pre-arrest bail was confirmed on this account. By the same token, applying the rule of consistency, as allegedly the stolen railway lines were allegedly dumped at the Otaq of Allah Obhayo Chandio, and thereafter re-loaded from his place for onward delivery in Lahore, this aspect of vicarious liability, as much as that of Allah Obhayo Chandio, remains subject to trial for the applicants/accused, too, at this stage of post-arrest bail, as well.

6. There is also another elephant in the room in this FIR, and this is that the description of the stolen railway lines is missing from the FIR. Although the FIR mentions 140 pieces of railway lines, it provides no information on the length of each piece or the total length of all the pieces. Although a theft is a theft, however, the missing information as to the number of pieces of railway line, the measurement of each piece of the railway line removed/stolen, and the weight/mass of the railway lines is not known. Indeed, related to this, there is also no information as to the nature of the pieces, that is, joint plates, single plate, whereabouts of the joint bolts, etc. Notwithstanding, as already mentioned above, this bench can only make a tentative assessment; nevertheless, this aspect also calls for further inquiry.

7. The upshot of the above discussion is that the description of the stolen property, the actual removal of stolen property and vicarious liability of the co-accused in terms of the intent and/or knowledge are yet to be established and are subject to further inquiry, and mere recovery of stolen property from the applicant/accused may not be sufficient for denial of concession of post-arrest bail to the two applicants/accused. The aforesaid discussion as to the culpability of the applicants/accused can only be established by the prosecution by recording evidence and determination by the trial Court based on such evidence. Notwithstanding the foregoing, if this bench was to allow, post-arrest bail, there is no likelihood of tampering with prosecution evidence, and, even otherwise, the two applicant/accused have been in incarceration for over twelve (12) months; whereas all the co-accused in the crime, nominated in the FIR and/or during investigation in this FIR No.31/2025, have been allowed the concession of bail.

8. Consequently, vide my short order dated 09.09.2026, the Bail Application was allowed and applicants/accused (i) Muhammad Aslam s/o Noor Muhammad Bhatti and (ii) Nasir Ali s/o Rehmat Ali Bhatti, were admitted to post-arrest bail in Crime No.31 of 2025, registered at Police Station Railway, Nawabshah, for the offences U/Ss 379, 411, 34 PPC subject to their furnishing solvent surety in the sum of Rs.300,000/- (Rupees Three Lacs Only) each and P.R. bond in the like amount to the satisfaction of the learned trial Court.

9. Needless to mention that the observations made herein are merely tentative and shall not be relied upon by the parties or by the trial Court and shall not influence the learned trial Court at the time of final decision based on merits after recording of evidence.

10. The above are the reasons for my short order dated 09.09.2026.

J U D G E

Asif