IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.1942 of 2026

Applicant	:	Rizwan Sajjad son of Sajjad Hussain *Through* Mr. Muhammad Akbar Awan, Advocate.
Respondent	:	The State *Through* Ms. Rubina Qadir, Additional Prosecutor General Sindh.
Date of hearing	:	03.11.2026
Date of Order	:	13.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** Applicant Rizwan Sajjad seeks post-arrest bail in a case bearing Crime No.: 170/2026 offence U/S: 392/397/34 PPC of P.S. Mominabad, Karachi. His earlier applications were declined by the learned Additional Sessions Judge-XI, Karachi West, vide orders dated 17.04.2026 and 23.04.2026, the latter principally for want of a fresh ground.

2. The prosecution case, briefly, is that on 30.03.2026, at about 11:45 p.m., three unidentified persons, allegedly armed with a firearm, entered the complainant's mobile-phone shop and deprived him of Rs.150,000/- and 37 mobile phones. The incident was reportedly captured by CCTV cameras installed at the premises. The FIR was registered against unknown persons. During investigation, several suspects were apprehended, recoveries were allegedly effected, and the applicant was subsequently implicated on the allegation that he had provided transportation to the principal offenders. The investigating agency thereafter submitted its reports under section 173 Cr.P.C., including supplementary material referring to offences under sections 395/412 PPC.

3. Learned counsel for the applicant contended that applicant was neither nominated in the FIR nor assigned any role in the actual commission of robbery; that he was earning his livelihood as a driver and allegedly transported certain persons in the ordinary course of his occupation without knowledge of their criminal design; that no identification parade was conducted to connect him with the occurrence; and that no recovery whatsoever was effected from the applicant during the entire investigation, whether of stolen property, cash, firearm or any other incriminating article. He further questioned the evidentiary value of the CCTV footage and

maintained that the prosecution had failed to establish any reliable nexus between the applicant and the alleged occurrence. According to him, the case squarely falls within section 497(2) Cr.P.C.

4. Conversely, learned DPG opposed the application, emphasizing the gravity of the occurrence, its commission at gunpoint, the CCTV material, recoveries allegedly effected from the co-accused and the applicant's purported association with the principal offenders. She maintained that sufficient incriminating material was available to connect the applicant with the offence falling within the prohibitory clause of section 497(1) Cr.P.C.

5. Upon tentative examination of the record, certain material features emerge which cannot be overlooked. The applicant was neither nominated in the FIR nor attributed any act of entering the shop, displaying a firearm, threatening the complainant or removing the property. His subsequent implication is essentially founded upon the allegation of having provided transportation to the principal offenders. Admittedly, no recovery of stolen mobile phones, cash, weapon or any other incriminating article was effected from his possession during investigation. The recoveries attributed to other accused cannot, without independent connecting material, be imputed to the applicant. The absence of recovery, though not independently decisive, assumes significance where the applicant's alleged participation rests upon circumstantial evidence requiring corroboration.

6. The prosecution has placed considerable reliance upon CCTV footage allegedly depicting the occurrence. During the course of arguments, a specific query was put to the learned DPG as to whether the identity of the applicant had actually been matched or verified with that of any person appearing in the CCTV footage and, if so, through what identifiable material or procedure. The learned DPG could not furnish any satisfactory response or point out material establishing such matching or verification. Thus, the assertion that the CCTV footage connects the applicant with the occurrence remained unsupported by any demonstrable identification process. Mere production of footage or photographic stills, without establishing the identity of the person allegedly depicted therein, does not, by itself, furnish reasonable grounds for believing that the applicant participated in the offence.

7. More importantly, no material was produced before this Court suggesting that the CCTV footage had been transmitted to the Forensic Science Laboratory (FSL) for examination to ascertain its genuineness, integrity or

possible manipulation, nor was any forensic report placed on record establishing its authenticity or connecting the applicant with the persons appearing therein. While forensic examination is not an indispensable statutory prerequisite for admissibility of every electronic recording, its absence becomes material where the prosecution principally relies upon such evidence to establish the identity of an accused who was otherwise unknown at the inception of the case. The evidentiary reliability of electronic material necessarily depends upon satisfactory proof of its origin, preservation, authenticity and the identity of the persons depicted. These aspects, in the present case, remain matters requiring evidentiary determination at trial.

8. The distinction between the existence of CCTV footage and its capacity to identify a particular accused is fundamental. A recording may corroborate the occurrence without necessarily establishing the identity of every alleged participant. The prosecution must bridge that evidentiary gap through legally acceptable material rather than assumption. Here, the applicant was not nominated in the FIR; no identification parade establishing his involvement has been demonstrated; no recovery was effected from him; and no satisfactory material was produced during arguments establishing that his identity had been matched with the CCTV footage. The cumulative effect of these circumstances renders his alleged identification and participation matters of further inquiry rather than reasonable grounds presently sufficient to justify continued incarceration.

9. Equally significant is the distinction between providing transportation innocently in the ordinary course of employment and knowingly facilitating a criminal enterprise. The latter may undoubtedly attract criminal liability where conscious participation and common intention are established, whereas the former, without proof of knowledge or intentional assistance, cannot *ipso facto* constitute participation in robbery. Section 34 PPC predicates joint liability upon the existence of common intention, which must emerge from conduct and surrounding circumstances. Mere association or provision of transportation does not dispense with proof of the requisite criminal intent. Similarly, section 395 PPC requires conjoint participation of five or more persons in committing or attempting to commit robbery, whereas section 412 PPC contemplates dishonest receipt or retention of property stolen in dacoity with the requisite knowledge. The applicability of these provisions to the applicant, whose alleged role is materially distinguishable from that of the principal offenders, consequently requires further inquiry.

10. The documentary material concerning the vehicle allegedly used for transportation may have relevance to its ownership, possession or use at the material time. Such evidence, however, cannot independently establish that the applicant knowingly transported persons for the purpose of committing robbery or facilitating their escape. The essential element of conscious participation cannot be presumed merely from the applicant's alleged occupation or association with persons subsequently implicated. Whether he was an innocent transporter or an intentional facilitator is a question requiring proof through evidence at trial.

11. The legal principles governing the controversy admit of no ambiguity. In PLD 2014 SC 458[1], the Supreme Court emphasized that adjudication of bail requires tentative assessment rather than deeper appreciation of evidence. In PLD 2016 SC 11[2], the Court reiterated that successive bail applications before the same Court ordinarily require genuinely fresh grounds. The present application, however, constitutes the applicant's first invocation of this Court's jurisdiction, besides the availability of subsequent investigative material. The earlier refusals, therefore, do not constitute an absolute impediment to independent consideration of his entitlement upon the record now available.

12. It is equally settled that the seriousness of an accusation, however grave, cannot substitute for reasonable grounds connecting the particular accused with its commission. The prohibitory clause of section 497(1) Cr.P.C. does not exclude the operation of subsection (2), which mandates consideration of bail where the material calls for further inquiry. The inquiry contemplated by the latter provision does not necessitate a tentative declaration of innocence; it arises where the evidence collected is insufficient, at the preliminary stage, to furnish reasonable grounds for believing that the accused committed the alleged offence. Suspicion, irrespective of its intensity, cannot be elevated into reasonable grounds merely by reference to the gravity of the crime.

13. Tested on the foregoing touchstone, the applicant's non-nomination in the FIR, absence of any directly attributed act constituting robbery, distinct transportation-related role, complete absence of recovery from his possession, lack of demonstrated identification through a lawful identification process, inability of the prosecution to satisfactorily establish matching of his identity with the CCTV footage, and absence of material

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[1] *Muhammad Shakeel v. The State*
[2] *Nisar Ahmed v. The State*

showing forensic examination of such footage, collectively create substantial questions regarding his alleged participation. These circumstances cannot be resolved conclusively without recording and evaluating evidence. The case, therefore, falls within the contemplation of further inquiry under section 497(2) Cr.P.C.

14. The investigation has substantially concluded and the police report has been submitted. The recovered articles, relevant documents and electronic material are already in the custody or control of the prosecution, thereby substantially diminishing the possibility of their manipulation by the applicant. No specific material has been pointed out indicating that his release would result in absconding, interference with evidence or intimidation of witnesses. Continued incarceration, in these circumstances, would amount to imposing a restraint upon liberty without the requisite satisfaction of the statutory conditions, whereas any genuine apprehension regarding misuse of bail may adequately be addressed through appropriate conditions and the remedy of cancellation.

15. For the foregoing reasons, the applicant has succeeded in making out a case of further inquiry within the meaning of section 497(2) Cr.P.C. Consequently, the application is allowed, and applicant Rizwan Sajjad son of Sajjad Hussain is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees two hundred thousand only) and a personal bond in the like amount to the satisfaction of the learned trial Court. He shall regularly attend the proceedings, shall not influence or intimidate any prosecution witness, and shall not misuse the concession of bail, failing which the prosecution shall be at liberty to seek its cancellation in accordance with law.

16. Needless to observe that all observations made herein are purely tentative, confined exclusively to the determination of the present bail application, and shall not prejudice either party at trial, which shall be decided independently upon the evidence brought on record.

J U D G E