IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2800 of 2026

Applicant	:	Ashraf son of Khudadad Through Mr. Amjad Ali Shabrani, advocate
Complainant	:	Ali Murad son of Murad Ali Through: Nemo
The State	:	The State: Through Ms. Seema Zaidi, Addl. P. G. Sindh a/w SI-Deedar Hussain of PS Mochko
Date of hearing	:	29.10.2026.
Date of Order	:	29.10.2026.

O R D E R

Jan Ali Junejo, J:- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant Ashraf son of Khudadad, who seeks his release on bail in connection with FIR No.440 of 2026 registered at Police Station Mochko, Karachi for the offences punishable under Sections 397/34 PPC. The applicant has approached this Court being aggrieved by the order dated 08.08.2026 passed by the learned Additional Sessions Judge-VII, Karachi West/MCTC whereby his bail application was declined.

2. Briefly stated, the prosecution case is that on 02.07.2026 at about 0015 hours complainant Ali Murad was returning towards his house from the side of Hub Chowki on his motorcycle after getting petrol filled, and when he reached near Rais Ghulam Sarwar Goth. Arab Goth, Mochko, four armed persons emerged from the bushes and allegedly committed robbery upon him, taking away his Nokia button/keypad mobile phone, black in colour, cash amounting to Rs.2,120/-, copy of his CNIC and wrist watch. The complainant, along with his friends, chased the accused persons, whereupon two of them succeeded in escaping by taking advantage of darkness, whereas the present applicant/accused and co-accused Yasir son of Khan Muhammad were apprehended. The robbed

articles and a weapon were allegedly recovered from the apprehended accused. In the meantime, police arrived at the spot and took the accused persons into custody, whereafter the present FIR was registered. Subsequently, a separate FIR under Section 23(1)(a) of the Sindh Arms Act, 2013 was also registered in respect of the alleged recovery of the weapon, hence this FIR.

3. Learned counsel for the applicant/accused contends that the applicant is innocent and has been falsely implicated in the instant case by the complainant in connivance with the police due to previous enmity, as the applicant and complainant of instant crime are neighbours and had exchanged harsh words on 27.06.2026 and prior thereto. He submits that the story narrated in the FIR is unnatural, improbable and does not appeal to a prudent mind, as the complainant allegedly claimed to have been robbed by four persons but thereafter went to his locality, gathered his friends and chased the alleged culprits, ultimately apprehending two of them, which makes the prosecution story doubtful. He further contends that no CCTV footage, mobile recording or other independent evidence of the alleged occurrence has been collected by the investigating officer, nor has the complainant disclosed the source or means through which the apprehended accused persons were allegedly identified and caught. He also contends that no independent witnesses were associated during the investigation, allegedly in violation of Section 103 Cr.P.C., and that the prosecution has failed to collect any substantial evidence connecting the applicant with the alleged offence. He further submits that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C., the applicant is neither a hardened criminal nor a previous convict, and no exceptional circumstance exists to withhold the concession of bail. He, therefore, prays that the applicant may be admitted to bail.

4. Conversely, the learned APG opposes the bail application. He submits that the applicant is involved in a heinous offence and from his possession robbed mobile and cash belongs to the complainant has been

recovered; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the concession of bail.

5. I have heard the learned Counsel for the Applicant as well as Assistant Prosecutor General, Sindh and perused the available record with their assistance.

6. I have considered the submissions advanced by learned counsel for the applicant and learned Assistant Prosecutor General, Sindh, and have carefully examined the available record.

7. The case of the prosecution, at this stage, is that the applicant, along with co-accused, allegedly committed robbery upon the complainant at gunpoint and, upon being chased by the complainant and his friends, was apprehended at the spot, whereas the remaining accused persons managed to escape. The prosecution further asserts that the robbed mobile phone and cash, along with a weapon, were recovered from the apprehended accused persons. The aforesaid allegations, coupled with the alleged recovery of the robbed articles, prima facie provide a connecting link between the applicant and the commission of the alleged offence.

8. The contention of learned counsel for the applicant that he has been falsely implicated due to previous enmity between the parties has been considered. However, the mere assertion of previous enmity, without any supporting material sufficient to discredit the prosecution version at this stage, does not by itself entitle the applicant to the concession of bail. Rather, previous enmity may also constitute a motive for the commission of an offence, and its actual effect upon the prosecution case is a matter to be determined after recording of evidence.

9. Although the offence under Section 397 PPC does not fall within the prohibitory clause of Section 497 Cr.P.C., it is settled law that the grant of bail in offences falling outside the prohibitory clause is not an absolute rule, nor does it dispense with the requirement of examining the nature of the accusation, the available incriminating material, and the circumstances of the case. In this regard, the Hon'ble Supreme Court of Pakistan, in Shameel Ahmed v. The State (2009 SCMR 174), has categorically held that

the grant of bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in Afzaal Ahmed v. The State (2003 SCMR 573), it was held that the mere fact that an offence does not fall within the prohibitory clause does not automatically entitle an accused to bail, as the Court retains discretion to grant or refuse bail in accordance with the established legal principles. In the instant case, the alleged direct apprehension of the applicant in the aftermath of the occurrence, coupled with the alleged recovery of the robbed mobile phone and cash, prima facie connects him with the commission of the offence. Consequently, at this stage, the case of the applicant cannot be treated as one of further inquiry within the meaning of Section 497(2) Cr.P.C.

10. In view of the foregoing discussion, I am of the considered opinion that the applicant has failed to make out a case for grant of post-arrest bail. Consequently, the instant Criminal Bail Application is dismissed. However, the observations made herein are tentative in nature and shall not influence the learned Trial Court while deciding the case on its merits. The learned Trial Court is directed to proceed with the trial expeditiously in accordance with law.

JUDGE