IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.775 of 2026

Applicant	:	Asad Khan @ Sahil son of Ghous Bakhsh *Through* Mr. Ghulam Mustafa Jajuho, Advocate.
Respondent	:	The State *Through* Ms. Seema Zaidi, Addl. P.G. Sindh duly assisted by Mr. Hussain Bux Saryo Advocate for the Complainant.
Date of hearing	:	10.11.2026
Date of Order	:	10.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** Applicant Asad Khan @ Sahil seeks post-arrest bail in case bearing Crime No. 404/2024, offence U/S 395/34 PPC of P.S. Memon Goth, Malir, Karachi, following dismissal of his application by the learned VIII-Additional Sessions Judge, Malir, Karachi, vide order dated 21.02.2026.

2. Concisely, the prosecution alleges that on 24.12.2024, seven armed persons entered the complainant's house, confined the inmates at gunpoint and decamped with cash amounting to Rs.6,000,000/- and gold ornaments weighing about 98 grams. The FIR was lodged against seven unidentified persons. The applicant was subsequently implicated during investigation.

3. Learned counsel for the applicant contends that he was neither nominated nor physically described in the FIR; no identification parade was held; his subsequent implication rests principally upon the disclosure of a co-accused; and neither any robbed property nor weapon was recovered from him. It is further submitted that the fingerprint examination yielded no match, while CCTV footage and geofencing have not established his identity or presence at the scene. Conversely, learned Additional Prosecutor General, assisted by learned counsel for the complainant, opposes bail, emphasizing the gravity of the armed dacoity, the material collected during investigation, the applicant's previous convictions and the apprehension of intimidation of prosecution witnesses.

4. Heard learned counsel for respective parties at length and perused the material placed on record. The occurrence alleged is undoubtedly grave and falls within the prohibitory clause of Section 497 Cr.P.C. Nevertheless,

the gravity of an offence cannot substitute for reasonable grounds connecting a particular accused with its commission. The distinction between proof of an occurrence and identification of its perpetrators assumes decisive significance where, as here, the FIR was registered against unidentified persons.

5. A tentative examination of the record reveals that the applicant was not named in the FIR, nor were any distinguishing features attributed to him. No identification parade is shown to have been conducted. His subsequent nomination, insofar as founded upon the disclosure of co-accused Ashiq Ali Chandio, does not independently constitute substantive incriminating evidence in view of Articles 38 to 40 of the Qanun-e-Shahadat Order, 1984, particularly when no discovery or recovery attributable to the applicant is demonstrated. The prosecution has also not shown recovery of any robbed property or weapon from his possession. These circumstances, though not individually conclusive, materially affect the strength of the identification evidence.

6. The forensic record merits particular attention. The Forensic Division found certain latent impressions unsuitable for a definite opinion, while NADRA, through its communication dated 19.02.2025, reported that examination through the Automated Fingerprint Identification System yielded no match. The report does not conclusively exclude the applicant, but equally furnishes no positive forensic connection. Similarly, the available CCTV and geofencing material has not been demonstrated to establish his identification or presence at the place of occurrence. The evidentiary worth of such material remains subject to proof at trial.

7. The prosecution has also produced judgments dated 02.08.2021 in Sessions Cases Nos.1782/2019 and 1783/2019, recording convictions of Sahil son of Ameer under Section 392 PPC and Section 23(1)(a) of the Sindh Arms Act, 2013, respectively, while acquitting him of charges under Sections 324 and 353 PPC. These antecedents, if attributable to the applicant, are undoubtedly relevant. However, his identity with the previously convicted person is disputed on account of discrepancies in name, parentage and caste. Even otherwise, previous convictions, though germane to the exercise of judicial discretion, cannot independently establish participation in a subsequent offence. Criminal propensity is not a substitute for legally admissible evidence connecting an accused with the particular charge.

8. The learned trial Court, while declining bail, appears to have placed substantial reliance upon the rejection of bail to co-accused Ashiq Ali Chandio, the gravity of the accusation and the applicant's antecedents, without adequately examining the distinguishing features of his case. Refusal of bail to a co-accused cannot operate as an automatic bar, particularly where the incriminating material differs. Nor can the complainant's apprehension of intimidation, unsupported by any specific act attributable to the applicant, by itself justify indefinite detention; appropriate conditions may safeguard the prosecution against such eventuality.

9. The Supreme Court in 2024 SCMR 14[1] has reaffirmed that the gravity of an offence is not conclusive where tentative assessment of the evidence raises a genuine question concerning the accused's involvement. Likewise, in 2024 SCMR 476[2], it was reiterated that further inquiry arises where the available material creates a reasonable doubt concerning such involvement, notwithstanding the prohibitory clause. The present case attracts these principles. The occurrence of armed dacoity and the applicant's alleged participation are distinct matters; proof of the former cannot, without a legally sustainable connection, establish the latter. The cumulative effect of non-nomination, absence of identification proceedings and recovery, lack of positive forensic corroboration and disputed antecedents renders the applicant's involvement a matter requiring further inquiry within the meaning of Section 497(2) Cr.P.C. Continued incarceration in these circumstances would amount to treating a disputed accusation as established guilt.

10. Consequently, this application is allowed. The applicant Asad Khan @ Sahil is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.300,000/- and a personal bond in the like amount to the satisfaction of the learned trial Court.

11. The observations herein are tentative and shall not prejudice either party at trial, which shall proceed independently on the evidence brought before it.

J U D G E

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[1] Salman Mushtaq and others v. The State
[2] Muhammad Shahzaib and others v. The State