

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2699 of 2024

Applicant : Umair Sikander son of Sikander Younus,
through Mr. Muhammad Nizar Tanoli,
Advocate.

Respondent : The State
through Ms. Rahat Ehsan, Addl. P.G. duly
assisted by Mr. Manzoor Hameed Arain,
Advocate for the Complainant.

Date of hearing : 30.04.2025

Date of order : 09.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. –Applicant seeks the concession of pre-arrest bail in a case bearing crime No. 671/2024, of Police Station Gulshan-e-Iqbal, Karachi, for offences punishable under Sections 506-B, 448, and 380 PPC. The applicant had earlier approached the learned IX Additional Sessions Judge, Karachi East, for similar relief; however, the said bail application was dismissed vide order dated 18.11.2024.

2. According to the prosecution’s narrative, complainant Sikandar Younas is the owner and resident of House No. D-161, Block-7, Gulshan-e-Iqbal, Karachi, where he resides with his family. It was alleged that the complainant had been falsely implicated in a criminal case at the instance of his son, Umair Sikandar(applicant), and was consequently incarcerated on 02.09.2024. The said case was subsequently disposed of under “B” Class. The complainant further asserted that during his confinement, his wife and two sons, namely Umair Sikandar and Babar Sikandar, along with their respective families, continued to reside at the aforesaid premises. Upon his release on 09.09.2024, he was informed by his son Babar that, on 02.09.2024 at about 1400 hours, Umair Sikandar had allegedly forcefully evicted the family members, including his mother, from the residence. It is further alleged that when the complainant visited the house to ascertain the situation, the applicant, criminally intimidated him by pointing a firearm at him and threatening to kill him if he returned to the premises. It is also

alleged that the accused had unlawfully trespassed and taken forcible possession of the house, which, according to the complainant, is his sole and exclusive property. Moreover, the complainant's wife informed that, during the forcible eviction, valuable articles were misappropriated, including six gold bangles, three gold chains, four rings, cash amounting to Rs. 800,000/-, the original registration file of a 2018 Toyota Corolla bearing registration No. BPB-166, and cheque books belonging to both the complainant and his son Babar Sikandar, all of which were allegedly removed after forcibly breaking open a cupboard. The complainant also expressed grave apprehension regarding the potential misuse of the aforementioned cheque books by the accused. In view of the foregoing allegations, the FIR was registered against applicant for offences pertaining to house trespass, theft, criminal intimidation, and unlawful dispossession of immovable property.

3. Learned counsel for the applicant has contended that the immovable property alleged to have been trespassed is, in fact, the applicant's ancestral and parental home, wherein he has a lawful right of residence. It is thus submitted that the essential ingredients of Section 448 PPC, which pertains to criminal trespass, are not attracted in the context of what is essentially a domestic dispute arising out of intra-family discord. Learned counsel further argued that the complainant is none other than the applicant's father, and the underlying dispute stems from familial disharmony rather than any criminal intent or act. It is further submitted that the institution of the present FIR is retaliatory in nature and appears to be an abuse of the criminal process, motivated by personal grievances rather than genuine allegations of cognizable offences.

4. Learned DPG for the State, duly assisted by the learned counsel for the complainant, has vehemently opposed the confirmation of pre-arrest bail on the ground that the applicant is disentitled to such extraordinary and discretionary relief, having approached this Court with unclean hands. He has forcefully contended that the applicant stands accused of grave acts of immorality and criminality, perpetrated not against strangers, but against his own parents and immediate family

members, conduct which is not only repugnant to settled legal norms but also in stark violation of religious and moral duties. He has further submitted that the applicant has egregiously breached his filial, religious, and ethical obligations by unlawfully dispossessing his mother and siblings from their lawful residence, thereby acting in a manner contrary to the moral and spiritual injunctions of Islam. Reliance is placed upon various verses from the Holy Quran, Surah Al-Isra (17:23), Surah Luqman (31:14), and Surah Al-Ahqaf (46:15), which collectively emphasize the divinely ordained obligation of kindness, obedience, and dutiful care towards one's parents. The applicant, however, is alleged to have turned against his own mother and siblings by forcibly evicting them from the shared residence and assuming exclusive, unlawful possession thereof. He has further argued that the applicant, in active collusion with others, committed house trespass by forcibly entering the premises, dispossessed the rightful occupants, and misappropriated valuable belongings including gold ornaments, cash, and blank signed cheques, acts which prima facie constitute cognizable offences under Sections 452, 380, and 506-B PPC. He also brought to the attention of this Court that the applicant has grossly misused the concession of interim pre-arrest bail by lodging false and retaliatory FIRs, bearing Nos. 490/2024 and 541/2024, with the sole object of harassing and maligning the complainant. It is pointed out that these efforts proved futile, as one of the said FIRs was classified as "B-Class" with a recommendation for departmental action against the complainant's accusers, while the other resulting in acquittal by the learned Judicial Magistrate. Furthermore, while under the protective umbrella of interim relief, the applicant is also alleged to have misused stolen cheques to lodge FIR No. 414/2024 under Section 489-F PPC, further demonstrating his mala fide intent and a calculated pattern of abuse of legal process to entangle the complainant in frivolous and vexatious litigation. It is also argued that the present application is the second in succession and does not disclose any new or compelling ground warranting reconsideration of the relief already declined by the learned IX Additional Sessions Judge, Karachi East, in Bail Application No. 5531/2024, dismissed vide order dated 18.11.2024. The learned counsel maintained that even assuming arguendo that the applicant had a prior right of residence in the disputed property, his

subsequent act of violently dispossessing his family from their home is a criminal act devoid of any lawful justification or colour of right. In conclusion, he submitted that the applicant, by acting in callous disregard of both legal and religious imperatives, and by repeatedly misusing the process of law, has rendered himself unworthy of equitable relief from this Court. He has therefore prayed that the instant application for pre-arrest bail be dismissed, and the interim protection earlier extended to the applicant be recalled forthwith, in the interest of justice. Reference was lastly made to Surah Aal-e-Imran (3:26), which enunciates the divine principle that honour and dignity are reserved for those who act with justice and righteousness.

5. Before embarking upon a consideration of the merits of the instant application for pre-arrest bail, it is imperative to recapitulate the well-entrenched legal principles enunciated by the august Supreme Court of Pakistan, which consistently guide the judicial exercise of discretion in matters pertaining to the grant of anticipatory bail. The jurisprudence on the subject leaves no ambiguity that the relief of bail before arrest is not a matter of right, nor is it to be granted in routine; rather, it is an extraordinary judicial dispensation intended to protect innocent persons from arrest in cases motivated by mala fide, ulterior motives, or founded upon manifestly false or exaggerated allegations. In *Rana Muhammad Arshad v. The State* (PLD 2009 SC 427), the Hon'ble Supreme Court reaffirmed the settled principles that pre-arrest bail is an extraordinary equitable relief, not to be granted as a matter of routine but only in exceptional circumstances where the accused demonstrates that the case falls within the ambit of Section 497(2) CrPC, indicating reasonable doubt or requiring further inquiry, and that the intended arrest is motivated by mala fide, designed to humiliate, harass, or oppress. It is not a substitute for post-arrest bail and must be granted with judicial restraint to avoid obstructing investigations or prejudicing the prosecution. The applicant must approach the Sessions Court before invoking the High Court's jurisdiction, barring exceptional justification, and must not be disqualified by factors such as a prior criminal record, fugitive status, or abuse of interim relief. These principles underscore that the discretion to grant pre-arrest bail is rooted in equity and must be

exercised sparingly to prevent abuse of process while safeguarding bona fide individuals from unlawful arrest. The ruling in PLD 1949 Lahore 21 (Hidayat Ullah Khan v. The Crown) laid down foundational principles governing the grant of pre-arrest bail, affirming that it is an extraordinary judicial remedy, available only in exceptional circumstances to protect innocent individuals from malicious prosecution or abuse of legal process motivated by mala fide intent or ulterior designs. It is not a matter of routine nor a substitute for post-arrest bail, and may only be granted where the accused demonstrates reasonable grounds to believe in their innocence and that the case warrants further inquiry under Section 497 Cr.P.C. The court must be satisfied that the arrest is being sought not to serve the ends of justice, but to humiliate, injure, or harass the accused through an abuse of authority. The overarching objective is to safeguard personal liberty against wrongful arrest while maintaining the integrity of criminal investigations, and thus, this discretionary relief must be exercised with great caution, judicial prudence, and circumspection. In the case of Shahzada Qaiser Arfat alias Qaiser v. The State and another (PLD 2021 SC 708) Hon'ble Supreme Court reaffirmed that the power of High Courts and Sessions Courts to grant pre-arrest bail must be exercised within the constitutional framework safeguarding liberty, dignity, due process, and the right to a fair trial under Article 10A of the Constitution. It emphasized that pre-arrest bail serves as a vital check against arbitrary and abusive arrest powers, and should be granted where no sufficient incriminating material or valid justification for arrest exists. The Court clarified that a mechanical requirement to prove mala fide or ulterior motive is not essential; instead, courts must independently evaluate the record to determine the necessity of arrest. The decision recognized pre-arrest bail not merely as an extraordinary remedy, but as a constitutional safeguard ensuring that the power to arrest is not misused to prejudice fair trial rights. Courts are permitted to examine the merits at the bail stage to assess the nexus of the accused with the alleged offence and whether arrest is genuinely required for investigation or trial, thereby striking a balance between the protection of innocent individuals and the legitimate interests of prosecution.

6. Record reflects, the applicant has demonstrably abused the concession of interim pre-arrest bail granted by this Court, thereby disentitling himself from the continued protection of such extraordinary relief. His alleged conduct, particularly towards his own parents, and most notably the complainant, his father, is not only violative of penal statutes reflecting commission of offence but also constitutes a reprehensible transgression of the moral and religious duties imposed by Islamic injunctions, which unequivocally command kindness, respect, and obedience towards parents, which has created adverse exceptional circumstances. The statements of the complainant, his wife, and son Babar Sikandar are mutually corroborative and prima facie disclose that the applicant, while enjoying interim protection, forcibly dispossessed his family from their lawful residence, removed valuable moveable property including gold ornaments and substantial cash, and unlawfully took possession of blank signed cheques. It is further alleged that the applicant, with malafide intent, forged signatures and weaponized both the banking and criminal justice systems by initiating frivolous and retaliatory complaints against his father and brother, thus misusing the legal process in a manner designed to intimidate and harass.

7. Additionally, there is prima facie material on record indicating that the applicant, in active collusion with police officials, procured the registration of false and fabricated FIRs against the complainant, which upon scrutiny were classified as “B-Class,” culminating in departmental proceedings against the delinquent officers. These manipulative efforts, coupled with the applicant’s complete lack of remorse, are further aggravated by his misuse of legal mechanisms through third-party instigation, including but not limited to lodging complaints through his cousin, namely Abu Bakar, to perpetuate familial discord and coerce his own parents. The applicant’s repeated and calculated misuse of the legal process, alleged acts of forgery, manipulation of official procedures, and overt attempts to pervert the course of justice clearly disentitle him to the equitable and discretionary jurisdiction of this Court under Section 498 Cr.P.C. His continued enjoyment of interim bail undermines the sanctity of the judicial process and militates against the interests of justice.

8. Moreover, the allegations against the applicant are grave in nature and include offences under Sections 380, 448, 452, and 506-B PPC, involving theft, criminal trespass, unlawful dispossession, and intimidation through threats of violence. It is a matter of record that despite the passage of considerable time, no recovery has been effected on his pointation due to his continued evasion of arrest and non-cooperation with the investigation. This obstruction has severely prejudiced the investigatory process and frustrates the very purpose of law enforcement. In this context, reliance is placed on the authoritative pronouncement of the Honourable Supreme Court in *Kamran Attaullah and another v. The State* (2021 SCMR 449), wherein it was reaffirmed that the relief of pre-arrest bail is an exceptional remedy, not to be granted merely due to absence of recovery or speculative involvement. The apex Court emphasized that anticipatory bail should not be permitted to operate as a tool for derailing or preempting legitimate investigative proceedings unless the accused can demonstrate that their arrest is manifestly mala fide or patently unlawful, conditions that are conspicuously absent in the present case.

9. Furthermore, the credibility and admissibility of the prosecution witnesses' statements are matters to be tested at trial, and not at the bail stage. The seriousness of the allegations, the likelihood of interference with the investigation, the prima facie evidentiary support, and the abuse of judicial protection collectively outweigh any plea for equitable relief. It is a settled proposition that judicial discretion under Section 498 Cr.P.C. cannot be exercised in favour of a litigant who approaches the Court with unclean hands, obstructs justice, and exhibits recalcitrant conduct. In conclusion, the applicant's behaviour during the pendency of his interim bail, his continued misuse of the process of law, and the serious nature of the offences imputed to him render him undeserving of any further indulgence from this Court. Accordingly, the interim relief earlier granted stands unjustified in the prevailing circumstances and merits immediate recall in the interest of justice, public order, and judicial integrity.

10. In the context of the applicant's conduct toward his own parents, particularly his father, the complainant in the instant case, it is both relevant and necessary to underscore the unparalleled sanctity that Islam accords to parental rights and obligations. The reverence, compassion, and obedience due to parents is not merely a moral or social ideal, but a divinely enjoined commandment rooted in the Qur'an and the teachings of the Holy Prophet Muhammad (peace be upon him). This duty transcends cultural norms and forms an essential component of a believer's faith and spiritual accountability. The failure to honour this obligation constitutes a grave transgression in both the religious and ethical spheres. The Holy Qur'an explicitly places obedience to parents immediately after the commandment of monotheism, signifying its paramount importance. In Surah Al-Isra (17:23), Allah (SWT) declares:

“And your Lord has decreed that you not worship except Him, and to parents, good treatment. Whether one or both of them reach old age [while] with you, say not to them [even] 'uff,' and do not repel them but speak to them a noble word.”

11. This verse imposes an unequivocal obligation upon every individual to not only abstain from disrespect but to proactively treat their parents with gentleness and dignity, particularly in old age. Similarly, Surah Luqman (31:14) states:

“And We have enjoined upon man [care] for his parents. His mother carried him, [increasing her] in weakness upon weakness, and his weaning is in two years. Be grateful to Me and to your parents; to Me is the [final] destination.”

12. And in Surah Al-Ahqaf (46:15), the Divine Command reaffirms:

“And We have enjoined upon man, to his parents, good treatment. His mother carried him with hardship and gave birth to him with hardship...”

13. These verses collectively form a foundational moral and spiritual framework, commanding unwavering compassion, obedience, and honour to one's parents. The disregard or violation of these duties is, therefore, not merely a private failing but a transgression against divine

will and communal order. The Ahadith (traditions of the Prophet, peace be upon him) further reinforce this divine mandate. In Sahih al-Bukhari, Hadith 5975, the Prophet (peace be upon him) stated:

“Shall I not inform you of the greatest of major sins?” They said, “Yes, O Messenger of Allah.” He said, “Associating partners with Allah, and disobedience to one’s parents.”

14. In Sahih Muslim, Hadith 2548, the Prophet (peace be upon him) declared:

“The pleasure of Allah lies in the pleasure of the father, and the displeasure of Allah lies in the displeasure of the father.”

15. And in Sunan Ibn Majah, Hadith 3653, a man came to the Prophet (peace be upon him) and said: “O Messenger of Allah, I want to go out and fight (in Jihad), and I have come to consult you.” The Prophet (peace be upon him) asked: “Do you have a mother?” The man replied: “Yes.” The Prophet (peace be upon him) said: “Then stay with her, for Paradise lies beneath her feet.” These narrations unequivocally demonstrate that ill-treatment, abuse, or dispossession of parents is among the gravest spiritual offences and bears severe religious consequences. When such transgressions are accompanied by criminal acts, such as theft, intimidation, unlawful dispossession, or the fabrication of malicious litigation, the moral breach is compounded by penal culpability.

16. In a jurisdiction where Islamic injunctions form part of the legal conscience under Article 227 of the Constitution of Pakistan, which mandates the conformity of laws with the injunctions of Islam, such conduct is not only socially repugnant but legally aggravating. The Constitution further recognizes the dignity of man (Article 14) as an inviolable right, and any act that humiliates or undermines this dignity, especially of elderly parents, strikes at the heart of constitutional values. Thus, the applicant’s actions, allegedly dispossessing his parents, misappropriating property, and instituting false complaints against his father while enjoying interim protection, stand in gross violation of both divine law and constitutional guarantees. These acts cannot be viewed in

isolation from their religious, moral, and societal dimensions, and such flagrant defiance of familial and spiritual obligations must weigh heavily against the exercise of any discretionary relief. Accordingly, the applicant's continued enjoyment of pre-arrest bail is not only contrary to the settled principles of criminal jurisprudence but also offends the ethical and religious fabric of our society. His conduct, when measured against the sacred obligations towards parents, is morally indefensible and legally reprehensible, warranting the recall of interim protection in the interest of justice, public morality, and respect for the fundamental tenets of Islam.

17. In view of the gravity of the allegations, the incriminating material collected thus far during the course of investigation, the applicant's conduct demonstrating a clear misuse of the extraordinary concession of pre-arrest bail, and the overall stage of the proceedings, I am of the considered view that no case for the extension of such discretionary relief is made out. Accordingly, the instant application stands dismissed, and the interim pre-arrest bail earlier granted to the applicant is hereby recalled forthwith. It is, however, clarified that the observations made herein are tentative in nature, confined solely to the disposal of the present bail application, and shall not prejudice the merits of the case at the trial stage in any manner.

J U D G E