

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 789/2025.

Applicant : Shahbaz son of Ghazan Khan,
Through Mr. Muhammad Farooq, Advocate

Respondent : The State
Through Mr. Siraj Ali Khan Addl. P.G

Date of hearing : 15.04.2025

Date of order : 15.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant Shahbaz seeks post-arrest bail in a case bearing Crime No. 69/2025, offence under section 397/34 PPC of P.S Boat Basin, Karachi. His bail plea was declined vide order dated 08.03.2025 by the learned 1st Additional Sessions Judge, Karachi South.

2. The factual matrix of the case, as gathered from the FIR, is that on 31.01.2025 at about 6:00 a.m., the complainant Ahmed reported that while on his way to work near Insaf General Store, Gulshan-e-Sikandarabad, Keamari, Karachi, he was intercepted by two unknown individuals riding a motorcycle (bearing registration No. KIL-1948). One of the assailants allegedly pointed a firearm and forcibly snatched his Samsung mobile phone. Shortly thereafter, the complainant saw a police mobile and reported the matter to ASI Tanzeeb. As per the FIR, during the police pursuit, the suspects' motorcycle malfunctioned and they were apprehended. The suspects were identified as Shahbaz and Adnan. Upon search, a 9mm pistol with ammunition was allegedly recovered from Adnan, while the complainant's stolen phone and cash were said to be recovered from Shahbaz(applicant). Consequent upon; case was registered inter alia on above facts.

3. Learned counsel for the applicant argued that the accused is a juvenile, aged about 16 years and 8 months, having no previous criminal history. He submitted that the applicant has been falsely implicated in the present case on the instigation of the complainant who, it is alleged, has affiliations with law enforcement officials. He contended that the case is based on managed recovery and fabricated version, which raises serious doubt as to the veracity of the prosecution's case. Learned counsel

submitted that the alleged offence, though serious, does not fall within the prohibitory clause of Section 497(1) Cr.P.C., and the case calls for further inquiry under Section 497(2) Cr.P.C. Learned counsel further submitted that the challan has already been filed, investigation stands concluded, and the applicant is no longer required for custodial interrogation. He maintained that no independent witness under Section 103 Cr.P.C. was associated with the alleged recovery, despite the FIR itself acknowledging that several people were present at the scene. He also submitted that the recovery is highly questionable in light of the minor's age and lack of direct involvement attributed to him beyond mere possession of the complainant's phone.

4. Conversely, learned Addl. P. G. Sindh opposed the grant of bail, arguing that the applicant was apprehended red-handed and the complainant's stolen mobile phone was recovered from him. He submitted that the recovery of firearm from co-accused Adnan further corroborates the prosecution's version, and that the offence is of a serious nature, affecting societal peace and therefore not fit for the grant of bail.

5. Admittedly, the applicant is a juvenile within the meaning of the Juvenile Justice System Act, 2018, being below 18 years of age. The juvenile nature of the accused calls for a different and compassionate approach to bail jurisprudence. The record does not reflect any prior involvement of the applicant in any criminal case. Moreover, the alleged recovery from the accused is that of the complainant's phone, and no weapon was recovered from him. The specific role attributed to the applicant, though incriminating, is not one that renders his custody indispensable at this stage.

6. It is settled law that bail should not be withheld as a form of punishment. In *Muhammad Shakeel v. The State* (2017 SCMR 733), the Hon'ble Supreme Court held that even in cases where reasonable grounds exist, if the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C., bail should ordinarily be granted, particularly when further inquiry is required and the accused is not shown to be a habitual offender and such case is in consonance with the famous landmark judgment of *Tariq Bashir Vs. The State* (PLD 1995 SC 34), which underscore that where the case calls for further inquiry or the accused is a first-time offender, bail may be granted even in cases of serious nature. In the present case, the evidence requires judicial scrutiny at the stage of

trial and the applicant, being a juvenile, deserves benefit of protective relief of bail rather than punitive incarceration.

7. Accordingly, considering the applicant's juvenile status, the absence of previous criminal record, the doubtful nature of the recovery, the non-prohibitory nature of the offence, and the settled principle that bail is the rule and refusal is an exception, I am of the view that the applicant has succeeded in making out a case for further enquiry, as envisaged u/s 497(2) Cr.P.C. Accordingly, the applicant Shahbaz was admitted to bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and P.R. Bond in the like amount to the satisfaction of the learned trial court by short order dated 15.04.2025.

These are the reasons of short order dated 15.04.2025.

J U D G E