

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No.290 of 2025

Applicant : Muhammad Shamim S/o Muhammad Yousif through Mr. Mujeebullah Panhwar, Advocate

Complainant : Javed S/o Muhammad Usman Present in person.

Respondent : The State through Ms. Rahat Ahsan, Addl. P.G. a/w PI Muhammad Siddiq and ASIP Muhammad Javed

Date of hearing : 28.02.2025

Date of order : 28.02.2025

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.13/2025 for the offence under Sections 381,411,34 PPC registered at PS Docks, after his bail plea has been declined by the learned VIIth Additional Sessions Judge, Karachi West vide order dated 27.01.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that the applicant is a bonafide purchaser and being a businessman, he used to purchase the same chemicals from main accused Raheel, as such, he has not committed any offence; that the offence in which the applicant has been booked does not fall within the prohibitory clause of Section 497 Cr.P.C. Lastly, he prays for confirmation of bail.

4. On the other hand, learned Addl. P.G. and complainant opposed for bail.

5. Heard and perused.

6. The case of the prosecution is that complainant reported that 990 bags of chemical were loaded in the wheeler truck for

sending the same to Al-Rakan Goods Transport, which was parked at the parking area NLC; however, the same chemicals bags were not delivered; as such, complainant contacted vehicle driver Sattar, whose number was continuously going switched off. During course of investigation, accused Raheel was arrested and on his pointation, present applicant was implicated in this case. As per complainant, 165 chemical bags were recovered from the godown of the present applicant. Whereas, claim of the applicant is that he is a bonafide purchaser and he purchased 200 chemical bags from accused Raheel on payment. When it was enquired whether the applicant has any invoice which justifies his claim, learned counsel for the applicant has failed to produce any invoice. Learned Addl. P.G. also stated that recovery has been effected from the godown of the applicant. Sufficient material is available on record which connects the applicant with the commission of alleged offence. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others'** [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 31.01.2025 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA