

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 811 of 2025

Applicant : Mst. Sobia W/o Nasir Ali
Through Mr. Mushtaque Ali Soomro, advocate

Respondent : The State
through Mr. Qamaruddin Nohri, DPG

Date of hearing : 16.04.2025

Date of order : 21.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant Sobia seeks post-arrest bail in a case bearing crime No. 140/2025, offence u/s 381 PPC of Police Station Gulshan-e-Iqbal Karachi. Her bail plea was declined by the Court of learned Judicial Magistrate XIIIth Karachi East and Additional Sessions Judge XIVth East, vide orders dated 07.03.2025 and 17.03.2025 respectively.

2. As per prosecution case, while the applicant working as a domestic maid in the complainant's household and on 01.03.2025 in between 11:00 a.m. to 04:00 p.m. committed theft of 3,000 US Dollars, 9,243 Saudi Riyals, 500 Dubai Dirhams and 200,000/- PKR. Consequent upon; case was registered inter-alia on above facts.

3. Learned counsel contended, there was an unexplained delay of 02 days in lodging the FIR; that the applicant is a woman and had minor children; that nothing was recovered from her at the time of arrest, but alleged recovery has been foisted upon her to strengthen the case, and the offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C.

4. Conversely, the learned DPG opposed the grant of bail and submitted that the applicant was not only named in the FIR with a specific role, but a significant quantity of stolen currency was recovered from her possession. However, reluctantly concedes that case does not fall within the prohibitory clause.

5. While there may be allegations of theft and recovery against the applicant, the fact remains that the offences alleged do not fall within the prohibitory clause of Section 497(1) Cr.P.C. Furthermore, the applicant, being a female without any antecedents, qualifies for statutory leniency as envisaged under the law. Her continued incarceration, in the given circumstances, appears to be of no substantial benefit to the prosecution.

Additionally, the evidentiary value of the arrest and recovery allegedly affected on 03.03.2025 is a matter requiring deeper appreciation at trial.

6. The applicant is a woman, and no exceptional circumstances have been brought on record to justify withholding the relief of bail in her case. The alleged recovery, the evidentiary value of which remains to be determined at trial, does not by itself constitute a bar to the concession of bail in a non-prohibitory offence. The Hon'ble Supreme Court in *Ghulam Hussain v. The State* (2017 SCMR 733) has emphasized that in offences not falling within the prohibitory clause, the grant of bail is a rule and refusal an exception, particularly where the accused is a woman entitled to statutory leniency under the First Proviso to Section 497(1), Cr.P.C. In the present case, the applicant is without any previous criminal record and is stated to have minor children. Her continued incarceration, at this stage, serves no useful purpose.

7. Given the above, prima facie applicant has succeeded to make out case for further inquiry, as envisaged under Section 497(II) Cr.P.C. Accordingly, she is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the trial Court. Needless to mention, the observations made herein are tentative in nature and shall not influence the trial proceedings, which shall be conducted strictly on merits.

J U D G E