

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No. 847 of 2025

Applicant : Muhammad Ibrahim son of Taj Muhammad,  
Through Mr. Syed Zainuddin, Advocate

Respondent : The State  
through Mr. Sardar Ali Solangi, Asstt: P.G  
Sindh duly assisted by Mr. Matloob Hussain,  
advocate for complainant.

Date of hearing : 15.05.2025

Date of order : 19.05.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Muhammad Ibrahim seeks post-arrest bail in a case bearing crime No. 219/2024, registered at Police Station Gulbahar, Karachi, offence under Sections 395 and 109, PPC. The bail plea was earlier declined by the learned VIth Additional Sessions Judge, Karachi Central, vide order dated 10.03.2025.

2. As per contents set forth in the FIR, on 30.05.2024 at about 03:45 a.m., five unidentified individuals entered in the house of the complainant Muhammad Ishaq, after the complainant's mother knocked at the door. Upon entry, the accused forcibly gathered the complainant and his family at gunpoint and confined them to a room. The accused then looted ten and a half tolas of gold ornaments, cash amount of Rs. 2,000,000/- from one room and Rs. 400,000/- from the kitchen, and also took away the complainant's licensed 30 bore pistol. Consequent upon; case was registered inter-alia on above facts.

3. The applicant was subsequently arrested and booked under Section 109 PPC for allegedly instigating or aiding the commission of the offence. He was not named in the FIR. His alleged role is based on the claim that he was known to the complainant's family and had previously worked at their house as a plumber/electrician, thereby allegedly facilitating the co-accused. It is stated that during investigation, co-accused persons made disclosure before the police implicating the present applicant, and some recovery of cash was effected on their joint pointation. However, no recovery was made from the applicant himself.

4. Learned counsel contended that the applicant is innocent and has been falsely implicated due to personal grudge and non-payment of bribe

to the police. It is further argued that no specific overt act has been attributed to the applicant in the commission of dacoity, and that he has merely been roped in under Section 109 PPC without cogent evidence. The applicant was not named in the FIR, no recovery was made from him, and there is no statement in the police file confirming whether the applicant is the same person who allegedly worked in the complainant's house. It is also pointed out that the confession of co-accused before police is inadmissible in pursuance of Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, and the role of instigation under Section 109 PPC is weak in nature and based on conjecture.

5. Conversely, learned counsel for the complainant and learned APG opposed the grant of bail, arguing that the applicant had a working relationship with the complainant and had access to the premises. It is alleged that he facilitated the commission of dacoity by instigating or guiding the co-accused, who were later arrested and led the police to recovery of looted amount. The complainant has claimed in his statement that Rs. 400,000/- were taken from the kitchen, which matches the disclosure of co-accused. Though the confession before police is inadmissible, subsequent recovery on joint pointation brings the matter within the ambit of Article 40 of QSO, 1984.

6. Record indicates that there is no eye-witness account implicating the applicant in the commission of the dacoity. The applicant is not named in the FIR and no identification parade was held to connect him with the offence. The role ascribed to him is limited to alleged instigation and prior familiarity with the complainant's residence. However, the police file is silent on whether any witness has confirmed that the applicant indeed worked at the complainant's house, which weakens the prosecution version. The use of Section 109 PPC in such circumstances, without independent corroboration, constitutes a weak type of evidence at this stage. As rightly contended, conspiracy or instigation is often clandestine and not susceptible to direct proof, yet its inference must be drawn from tangible circumstantial evidence, which is presently lacking.

7. The recovery of Rs. 640,000/- on joint pointation of co-accused, though admissible under Article 40 QSO, does not directly connect the applicant to the recovered property. Moreover, no amount or property was recovered from the applicant himself. Investigation is completed, challan has been submitted, and the applicant is no more required for custodial interrogation. The case against him requires further inquiry within the

meaning of Section 497(2) Cr.P.C. The accused is in judicial custody and there is no allegation of tampering with evidence or influencing witnesses.

8. In view of the above, particularly the weak nature of evidence under Section 109 PPC, lack of recovery from the applicant, and the absence of direct incriminating material, a case for further inquiry is made out. Accordingly, the applicant Muhammad Ibrahim is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the trial court.

9. Needless to mention, the observations made herein are tentative in nature and shall not prejudice the trial court in deciding the matter on merits.

**J U D G E**