

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.535 of 2025

Applicant : Ibrahim Talib son of Talib Ali,
Through Mr. Zubair Ahmed, Advocate

Respondent : The State
through Mr. Sarfaraz Ahmed Mangi, Spl
Prosecutor ANF

Date of hearing : 20.05.2025

Date of order : 23.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Ibraheem Talib seeks release on bail in a case bearing crime No. 627/2024, registered at P.S. Gizri under Section 381-A, PPC, after dismissal of his earlier bail application by the learned Ist Additional Sessions Judge, Karachi South, vide order dated 24.02.2025.

2. Briefly, the FIR was lodged by complainant Nouman Abdul Khaliq alleging that on 28.12.2024, he had parked his Honda City (2022 model) bearing registration number BYM-013 outside Gate No.3 near Bait-ul-Islam mosque, DHA, Karachi, and upon return found the vehicle stolen by unknown persons. Subsequent investigation allegedly led to the arrest of certain accused, and recovery of the vehicle was effected from co-accused Waris Ali and Waleed Lodhi, both of whom have been admitted to bail by the learned Magistrate vide orders dated 06.01.2025. The present applicant's name surfaced later in the statement of a co-accused.

3. Learned counsel for the applicant has contended that the name of the applicant does not appear in the FIR and was subsequently introduced during investigation. No recovery has been effected from the present applicant. The alleged recovery of CNICs is fake and lacks evidentiary value. The challan is silent on essential procedural aspects including dates of arrest, interrogation, or entries of movement of police. Co-accused similarly placed have been granted bail; hence, the applicant is entitled to bail on the ground of consistency. CCTV footage allegedly collected is inconclusive and does not directly implicate the applicant. The applicant is a young person with no prior criminal record and is in custody since his arrest.

4. Conversely, learned APG assisted by the complainant's counsel opposes the bail, arguing that the applicant is involved in a serious offence involving the

theft of a vehicle, and his connection to the crime has surfaced during investigation; hence, he is not entitled to concession of bail.

5. The Court has given due consideration to the submissions and perused the material available on record. It appears that the name of the applicant did not transpire in the FIR lodged promptly after the incident. The vehicle has admittedly been recovered from co-accused Waris Ali and Waleed Lodhi, who are now on bail. No specific recovery has been made from the present applicant. His implication rests primarily on the statement of co-accused. Bail has already been granted to other co-accused on similar allegations by the learned Magistrate.

6. So far as the question regarding the availability of CCTV footage is concerned, it is submitted that reliance in this regard is placed on the *rule* laid down in *Akhter Ali Ghowada v. The State* (2015 MLD 1661), wherein it was held that mere presence of CCTV footage or digital evidence without conclusive identification or linkage to the accused is insufficient at bail stage to deny liberty, as such aspect would require determination by the trial court after recording of evidence. In the present case, even if CCTV footage exists, the prosecution has not established at this stage that it conclusively identifies the present applicant as the perpetrator.

7. Alleged offence does not fall within prohibitory clause of section 497(1) Cr.P.C. In *Muhammad Tanveer v. The State* (PLD 2017 Supreme Court 733), the Honorable Supreme Court of Pakistan elaborated on the guiding principles governing the grant of post-arrest bail under Section 497 Cr.P.C. The apex Court examined the nature of the evidence against the petitioner and emphasized that mere recovery particularly in the absence of direct, convincing, and unimpeachable evidence does not justify prolonged incarceration of an accused who has not been proven guilty at trial. The Court reiterated the long-standing legal principle that bail cannot be withheld as a form of punishment and that prolonged detention without trial offends Article 10-A of the Constitution, which guarantees the right to a fair trial. It was further observed that bail should be granted when the evidence against the accused is doubtful or requires further inquiry, as per Section 497(2) Cr.P.C.

8. In these circumstances, the case against the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C. The applicant has remained in custody and no fruitful purpose is likely to be served by keeping him behind bars pending trial. He does not appear to be a previous convict, and no allegation has been made of his being a flight risk.

9. Accordingly, the applicant Ibraheem Talib is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.300,000/- (Rupees Three Hundred Thousand Only) and PR bond in the like amount to the satisfaction of the learned trial Court. Needless to add, observations made herein are tentative in nature and shall not influence the trial Court at the time of final adjudication.

J U D G E