

## IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Application No.S-349 of 2025

**Applicant** : Hajan @ Ameer Khan S/o Meer Hassan,  
By caste Kalhoro,  
Mr. Mudasir Ahmed Chana & Co. Adv.

**Respondent** : The State  
Through Mr. Nazeer Ahmed Bhangwar  
Deputy Prosecutor General.

**Date of hearing** : 17.07.2025

**Date of order** : 17.07.2025

### ORD E R

**KHALIDHUSSAINSHAHANI,J.**—Applicant Hajan alias Ameer Khan seeks confirmation of pre-arrest bail in a case bearing crime No.34 of 2025 registered at Police Station Naperkot for offence under Sections 457 and 380 PPC. The applicant was granted interim pre-arrest bail by this Court vide order dated 30.06.2025.

2. As per prosecution, complainant Rashid Ali lodged FIR on 02.06.2025 alleging that on the night of 01.06.2025 at about 3:00 a.m., while performing security rounds along with his cousins, they witnessed by the illumination of electric and solar lights that the accused persons, including the present applicant along with others, were committing theft at his shop. The complainant claimed to have identified the accused including the applicant and three others with weapons, stealing cartons of cigarettes, ghee, tea, other grocery items, and cash total worth Rs.8,00,000/-, and thereafter fleeing from the scene.

3. Learned counsel contended that the applicant has been falsely implicated due to village enmity; that there is a delay of one day in lodging the FIR, which has not been plausibly explained; that no specific role has been assigned to the applicant; and that no recovery has been effected from him. It was further submitted that the co-accused Akbar, who was also named in the FIR and similarly alleged

to be involved in the theft, has already been granted post-arrest bail by the learned Judicial Magistrate, Khanpur, vide order dated 24.06.2025. It was, therefore, urged that in view of the rule of consistency, the applicant is entitled to the same relief, and no useful purpose would be served by his arrest at this stage.

4. Conversely, learned Deputy Prosecutor General, appearing for the State, vehemently opposed the bail application on the grounds that the applicant has been nominated in the FIR with a specific role, identified at the spot, and that recovery is still to be effected. He further argued that the applicant's custodial interrogation is essential and the offence falls within the prohibitory clause due to the nature and severity of the act committed during house breaking by night.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The record reflects that the applicant has been nominated in the FIR and was allegedly seen committing theft along with co-accused during night time. However, it is an admitted position that co-accused Akbar, who was similarly situated, has been granted post-arrest bail by the learned trial court. No application whatsoever has been filed by the prosecution challenging said bail order. In such circumstances, the principle of consistency as enunciated by the Honourable Supreme Court of Pakistan in *Tariq Bashir v. The State* (PLD 1995SC 34), becomes squarely applicable. Where one accused is granted bail and the allegations against the co-accused are almost identical, the latter deserves similar treatment unless differentiated on some legally justifiable grounds. Reliance is also placed on case of *Muhammad Ramzan V. Zafarullah and another* (1986 SCMR 1380), in which cancellation of bail is refused by holding that no useful purpose was likely to be served if bail of accused was cancelled on any technical ground because after arrest he could again be allowed bail on the ground that similarly placed other accused were already on bail.

7. Moreover, the applicant has joined the investigation pursuant

to interim bail and no material has been brought to the fore to show that he has misused the concession of interim bail or tampered with the prosecution evidence.

**8.** The grant of pre-arrest bail is an extraordinary relief, to be exercised where malafide is apparent or the arrest appears to be motivated by ulterior motives. In the present case, the applicant and complainant are admittedly residents of the same village, and the possibility of village rivalry cannot be ruled out altogether. While the allegation is serious, no recovery has yet been made from the present applicant, and the prosecution has not been able to demonstrate any special reason to treat his case differently from that of co-accused Akbar.

**9.** In view of the above facts and circumstances, particularly the application of rule of consistency, I am of the tentative view that the applicant has made out a fit case for confirmation of pre-arrest bail.

**10.** Accordingly, the interim pre-arrest bail granted to the applicant/accused Hajan alias Ameer Khan vide order dated 30.06.2025 is hereby confirmed on the same terms and conditions. However, the applicant is directed to continue cooperating with the investigating officer and to appear before the trial Court as and when required.

**11.** Needless to mention, the observations made hereinabove are tentative in nature and shall not influence the trial Court in any manner.

**J U D G E**