

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.702 of 2025

Applicants : i. Abdul Sattar Mashori son of Khair Muhammad
ii. Syed Muhammad Shahid son of Syed M. Majid
iii. Zohaib Ghani Larik son of Abdul Ghani Larik
through M/s. Irshad Ahmed Jatoy & Munawar Ali
Teewno, Advocates

Respondent : The State
through Ms.Rubina Qadir, APG.

Date of hearing : 29.05.2025

Date of order : 29.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – This order addresses and disposes of the instant application for Anticipatory Bail filed by Applicants Abdul Sattar Mashori, Syed Muhammad Shahid, and Zohaib Ghani Larik, under Sections 498 & 498-A read with Section 561-A of the Criminal Procedure Code, 1898, arising out of FIR No. 858/2024, registered at P.S. Shah Latif Town, Malir, offence under Sections 420, 406, 504, 506, and 34 of the Pakistan Penal Code..

2. Succinctly stated, the facts giving rise to this application are that FIR No. 858/2024 was lodged at P.S. Shah Latif Town on the complaint of a citizen. The complainant alleges that the Applicants, along with their accomplices, engaged in a scheme by offering a job. In furtherance of this alleged scheme, the complainant claims to have paid an amount of Rs. 2,500,000/- (Rupees Twenty-Five Lacs). The FIR states that Rs. 500,000/- (Rupees Five Lacs) was subsequently returned to the complainant, while a balance of Rs. 2,000,000/- (Rupees Twenty Lacs) remains outstanding. The FIR has been registered under Sections 420 (Cheating), 406 (Criminal Breach of Trust), 504 (Intentional insult with intent to provoke breach of the peace), 506 (Criminal intimidation), and 34 (Acts done by several persons in furtherance of common intention) of the Pakistan Penal Code.

3. The learned counsel for the Applicants vehemently argued that the applicants are senior and respectable officials of the National Bank of Pakistan (NBP), holding key and responsible positions, and possess unblemished professional records. It was submitted that the present FIR is a frivolous, malicious, and fabricated counter-blast, orchestrated by one Mr. Hyder Ali Hakro, an ex-NBP Manager, and his accomplices. The Applicants assert that they were actively involved in an internal

investigation into substantial fraudulent activities (exceeding Rs. 120 Million) allegedly conducted by Mr. Hakro at the IBB New Fruit & Vegetable Market Branch of NBP. The learned counsel highlighted a pervasive pattern of harassment against NBP officials involved in the fraud investigation, including previous false complaints and FIRs lodged by Mr. Hakro, which were subsequently dismissed by the Malir Court and this Court (e.g., Cr. MA No. 1855/2024, 754/2024, 2847/2024, and FIR No. 707/2024 against Mr. Muhammad Hanain Khalid). It was strenuously argued that the Applicants have a reasonable apprehension of imminent, unlawful arrest, insult, and mental harassment due to the biased actions of local police, reportedly under the influence of Mr. Hyder Ali Hakro. They genuinely fear being unlawfully detained, handcuffed, and subjected to humiliation and mistreatment within the premises of Malir Court, a setting alleged to be heavily influenced by Mr. Hakro and his supporters, who are intent on frustrating the Applicants' investigations and obstructing justice. Furthermore, the counsel submitted that the offences charged under Sections 420, 406, 504, 506, and 34 PPC do not fall within the prohibitory clause of Section 497 Cr.PC, making bail a rule rather than an exception. It was strongly argued that the FIR lacks substantive evidence, clear intent, or motive linking the Applicants to the alleged crime. The nature of the allegations reflects a baseless attempt to entangle the Applicants in litigation as retribution for exposing substantial fraud within NBP. Given the Applicants' professional standing and role in exposing fraud, it is evident that the FIR was filed with malafide intent. The counsel emphasized that the complainant's version of events, as described in FIR No. 858/2024, is not only unsubstantiated by concrete evidence but also improbable, and the Applicants were neither present at the alleged scene nor involved in any act that could lead to such charges, necessitating a deeper inquiry into their guilt or innocence as per Section 497(2) Cr.PC. The unwarranted actions taken by the police, allegedly under the influence of Mr. Hyder Ali Hakro, threaten the Applicants' fundamental rights under Articles 4 (right to be treated in accordance with the law), 9 (security of person), and 14 (inviolability of dignity) of the Constitution of the Islamic Republic of Pakistan, 1973. The learned counsel asserted that this is an exceptional case warranting the direct exercise of concurrent jurisdiction by the High Court, citing precedents such as *Rais Wazir Ahmed v. The State* (2004 SCMR 1167) and *Agha Muhammad Jamil v. The State* (1997 PCrLJ 901) to support direct intervention in cases of unjustified harassment and abuse of process. It was highlighted that an arrest based on such dubious charges would cause irreparable damage to the Applicants' professional careers and personal reputations as senior bank

officials who hold positions of public trust. Reliance was placed on several judgments, including:

- **Muhammad Tanveer v. The State & others (PLD 2017 SC 733)**, which held that cases not falling within the prohibitory clause of Section 497 Cr.PC are a rule for bail, and refusal is an exception.
- **Khalil Ahmed Soomro & others v. The State (PLD 2017 SC 730)**, emphasizing that while considering pre-arrest bail, one of the preconditions is that the accused person has to show that their arrest is intended by the prosecution out of malafides and for ulterior motives, and that the merits of the case must also be seen.
- Other cases illustrating valid grounds for pre-arrest bail due to unjustified harassment and humiliation (PLD 1983 SC 82, 1988 SCMR 1223, PLD 1998 SC 97, 2005 SCMR 784).

Finally, the counsel reiterated that the Applicants are innocent, have committed no offence, and are seeking protection from the Court due to the complainant's alleged intent to compel them to withdraw and not investigate against Mr. Hyder Ali Hakro and his accomplices in a tailored-made case.

4. The learned APG for the State vehemently opposed the grant of anticipatory bail, arguing that the FIR discloses a serious cognizable offence of cheating and criminal breach of trust involving a substantial amount of Rs. 2,000,000/-. It was contended that a prima facie case exists against the Applicants based on the complainant's statement, which explicitly names them and details their alleged involvement in a job scam, thereby justifying the initiation of investigation and potentially custodial interrogation. The APG submitted that granting anticipatory bail at this preliminary stage could hamper the ongoing investigation, as the Applicants, being influential individuals, might abscond, tamper with evidence, or influence witnesses who are yet to be examined. He argued that the claim of mala fides is a matter of evidence that needs to be established through solid proof during the investigation, and at this nascent stage, mala fides cannot be unequivocally presumed. The APG maintained that the police should be allowed to complete their investigation without undue interference, and that anticipatory bail is an extraordinary remedy to be exercised cautiously, only when there is clear and undeniable evidence of malice or political victimization.

5. This Court has carefully considered the comprehensive arguments advanced by the learned counsel for the Applicants and the learned APG for the State, and has meticulously perused the available record, including

the FIR, the Applicants' annexed documents detailing previous litigation, and the background facts presented.

6. Before discussing the merits of this bail application, I must first include the court's previous order dated: 07-03-2025, which guides this decision:

"...Applicants seek pre-arrest bail in crime No.858/2024 under Sections 420, 406, 504, 506 and 34 PPC registered at PS Shah Latif, Malir, Karachi.

Per counsel the applicants are senior officials of the National Bank of Pakistan, holding key positions at different places while one Haider Ali Hakro, an employee of the Bank committed fraud to the tune of Rs. 122 Million and transferred the amount in the bank account of one Faiz Hussain, a practicing Advocate of Malir Bar Association, at Habib Metropolitan Bank. He pointed out that in July, 2024 the Bank filed a complaint with the FIA against Haider Ali Hakro, who went on unauthorized leaves and with the help of a group of lawyers, started registering false FIR against the officers and executives of the Bank who were responsible for supervising the internal investigation for causing loss to the national exchequer. He further submitted that Haider Ali Hakro abducted Muhammad Hanain Khalid, who provided initial information about the fraud, and maltreated him. Consequently, applicants herein, Muhammad Hanain Khalid and others preferred CP No.D-5513 of 2024 against Haider Ali Hakro and others and a Division Bench of this Court vide order dated 14.11.2024 stayed the proceedings in FIR No.707/2024. He further submits that applicants being law abiding citizen are ready to appear before the trial Court but apprehending their abduction, harassment and maltreatment at the hands of the group of lawyers working in collusion with the Haider Ali Hakro have approached this Court directly and prays that they may be admitted to interim pre-arrest bail.

Without touching the merits of the case, applicants are admitted to interim pre-arrest bail subject to their furnishing solvent sureties in the sum of Rs.100,000.00 each with PR bond in the like amount to the satisfaction of the Nazir of this Court. Issue notice to the Prosecutor General and complainant. To come up on 10.04.2025 for confirmation or otherwise."

7. Coming to the merits of this case, at the very outset, the Court notes the registration of the FIR under both Section 406 (Criminal Breach of Trust) and Section 420 (Cheating) PPC. It is a well-established principle of criminal jurisprudence that these two offences are, by their very nature, generally distinct and mutually exclusive for the same set of facts, as they hinge on different criminal intentions at different points in time.

- *Section 420 PPC (Cheating): This section deals with deception from the very outset. The intention to defraud is present at the*

moment the property is induced to be delivered. The property is obtained through misrepresentation or dishonest inducement.

- *Section 406 PPC (Criminal Breach of Trust): This section applies where there is an initial lawful entrustment of property. The accused receives the property legitimately, but subsequently, with a dishonest intention, misappropriates, converts, or disposes of that property in violation of the trust. The criminal intent arises after the entrustment.*

8. In the present case, the FIR alleges a "job scam" where money was paid for a promised job that was not delivered. If the promise of a job was, from the beginning, a deceptive inducement to obtain money, the offence would primarily fall under cheating (Section 420 PPC). The simultaneous inclusion of Section 406 PPC suggests an initial entrustment that was later breached. This apparent contradiction within the FIR itself as to the precise nature of the primary offence creates a strong ground for "further inquiry" into the actual intent and sequence of events, as envisioned under Section 497(2) Cr.PC. Such an inconsistency at the initial stage weakens the prima facie case for outright denial of bail and strengthens the Applicants' contention that the matter warrants careful scrutiny during investigation.

9. The applicants have presented a compelling and well-documented case regarding the alleged mala fides and the counter-blast nature of the FIR. The detailed averments and annexed documents, particularly concerning the ongoing internal NBP fraud investigation against Mr. Hyder Ali Hakro (the alleged orchestrator), and the subsequent filing of multiple frivolous complaints and FIRs against NBP officials involved in exposing that fraud, cannot be ignored. The pattern of Mr. Hakro's alleged retaliatory actions, including previous dismissals of his complaints by various courts, strongly supports the Applicants' assertion that the current FIR might indeed be a malicious attempt to derail the investigation into his alleged misappropriation of funds and to harass bank officials. While this Court cannot give a final finding on mala fides at the bail stage, the material placed on record certainly raises a strong suspicion of abuse of process, which is a fundamental consideration for anticipatory bail.

10. The offence under Sections 420, 406, 504, 506 & 34 PPC charged in the FIR, do not fall within the prohibitory clause of Section 497 Cr.PC. In such instances, the grant of bail is generally the rule, and its refusal is an exception, as authoritatively held by the Hon'ble Supreme Court in *Muhammad Tanveer v. The State & others* (PLD 2017 SC 733). The

professional standing of the Applicants as senior bank officials, coupled with their consistent claim of innocence and active participation in an internal investigation against the alleged primary fraudster, suggests that their arrest at this stage, without sufficient, direct, and compelling evidence of their specific involvement in the alleged job scam beyond mere accusation, would amount to an exercise of undue hardship and could cause irreparable damage to their reputation and careers. The peculiar circumstances of this case, particularly the allegations of a counter-blast and the apparent contradictions in the FIR, clearly indicate that it is a case calling for further inquiry under Section 497(2) Cr.PC.

11. The applicants' apprehension of imminent, unlawful arrest, humiliation, and harassment, particularly at the court premises under the alleged influence of the counter-party, is a valid and substantial ground for the exercise of this Court's concurrent jurisdiction for anticipatory bail. The principles laid down in *Rais Wazir Ahmed v. The State* (2004 SCMR 1167) and *Khalil Ahmed Soomro & others v. The State* (PLD 2017 SC 730) firmly establish that anticipatory bail can be granted where the arrest is intended for ulterior motives, to cause undue harassment, or where there are strong grounds for believing that the accused is being falsely implicated. The compelling circumstances, as narrated by the Applicants, justify this Court's intervention to prevent a potential miscarriage of justice and to protect their fundamental rights.

12. In conclusion, taking into consideration the totality of the circumstances, including the strength of the Applicants' defense regarding mala fides, the non-prohibitory nature of the offences, the element of further inquiry required, and the genuine apprehension of harassment and irreparable harm to their reputation, this Court finds sufficient grounds to admit the Applicants to anticipatory bail. While the investigation must proceed unhindered, the balance of convenience lies with protecting the Applicants' liberty and reputation from potentially malicious and unlawful arrest.

13. For the foregoing reasons and a detailed consideration of the merits presented, the instant application for pre-arrest bail is allowed. Interim pre-arrest bail vide order dated 17.03.2025 granted to the applicants is confirmed on same terms and conditions with the directions to join investigation / trial.

J U D G E