

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln No. S-589 of 2025

Applicant : Maqsood Ahmed s/o Muhammad Saffar, Maitlo
Through Mr. Amanullah G. Malik, Advocate

Complainant : Sharafuddin s/o Nizamuddin, Ghumro
Through Syed Abu Bakar Shah Rashidi, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 03.10.2025
Date of order : 13.10.2025

ORDER

KHALID HUSSAIN SHAHANI, J.– Applicant Maqsood Ahmed, seeks post-arrest bail who stands charged for offences under Sections 420, 406, 468, 471, 506/2, and 34 of the Pakistan Penal Code in a case bearing crime No. 05/2025 registered at Police Station Pir Jo Goth, District Khairpur.

2. The genesis of this case emanates from allegations by complainant Sharafuddin Bhumbhro, who claims to be a government employee in the agriculture department and a landowner. According to the FIR lodged on 19th January 2025, the complainant alleges that he consulted the applicant in 2021 regarding government jobs for his son Zeeshan Ahmed and daughters Shumaila and Kosar. The complainant claims that the applicant demanded Rs.30,00,000 (thirty lac rupees) for arranging these positions, which amount was allegedly paid on 5th January, 2021 in the presence of witnesses Manzoor Hussain and son Anees Ahmed. The applicant allegedly provided government orders dated 8th April 2021, which were subsequently discovered to be fraudulent. When the complainant demanded return of the money on 15th December 2024, the applicant allegedly threatened him with a repeater weapon and refused to return the amount.

3. The record reveals that this is the applicant's fifth bail application, having previously been rejected by various courts. The first application was dismissed by the learned Judicial Magistrate, Pir Jo Goth

on 6th February, 2025. The second application before the Additional Sessions Judge-III, Khairpur was dismissed on 24th February 2025. The third application again before the Judicial Magistrate was dismissed on 29th March 2025. The fourth application before Additional Sessions Judge-III was dismissed on 7th July 2025 with the observation that no fresh grounds had been advanced.

4. Mr. Amanullah G. Malik, learned counsel appearing for the applicant, has advanced multiple contentions challenging the denial of bail. The primary argument centers on the contention that the applicant is innocent and has been falsely implicated due to a property dispute regarding mango orchards. Counsel submits that there is a civil dispute between the parties wherein the complainant and his brother had contracted three *jirebs* of mango garden to the applicant in 2019 for Rs.14,00,000 (fourteen lac rupees), of which Rs.7,00,000 (seven lac rupees) were paid, but the complainant subsequently gave the garden to a third party. Counsel argues that when the applicant demanded return of his amount, the complainant issued five cheques totaling Rs.6,30,000, which were dishonored when presented. Counsel further contends that there is an inexplicable delay of about four years between the alleged fake orders being discovered in 2021 and the complaint being made in December 2024. It is argued that the complainant's conduct of remaining silent for such a prolonged period undermines the credibility of his allegations. Additionally, counsel submits that the offences charged do not fall within the prohibitory clause of Section 497(1) Cr.P.C., and that Sections 420, and 471 are bailable offences.

5. The learned Additional Deputy Prosecutor General, representing the State, has opposed the bail application on the grounds that the applicant has been specifically nominated in the FIR with a

defined role. The prosecution contends that the applicant has committed serious financial fraud by obtaining Rs.30,00,000 (Thirty lac rupees) under false pretenses and providing fraudulent government orders. The State argues that similar cases have been registered against the applicant for defrauding other victims, indicating a pattern of criminal behavior. The complainant's counsel has produced copies of the allegedly fake government orders, photographs, and other documentary evidence to support the prosecution case. It is argued that the applicant has committed the financial murder of the complainant and his family by depriving them of their life savings, and that no leniency should be shown.

6. Heard the parties and perused the record. A fundamental consideration in bail determination is the classification of charged offences under Section 497 of the Criminal Procedure Code. The Supreme Court in *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) established the foundational principle that in bailable offences, the grant of bail is a right and not favor, whereas in non-bailable offences the grant of bail is not a right but concession/grace. Section 497 Cr.P.C divides non-bailable offences into two categories: (i) offences punishable with death, imprisonment for life or imprisonment for ten years; and (ii) offences punishable with imprisonment for less than ten years.

7. The offences charged in the instant case i.e. Sections 420, 406, 468, 471, 506/2 and 34 PPC fall within the second category and do not attract the prohibitory clause of Section 497(1) Cr.P.C. The Supreme Court in *Tariq Bashir* firmly held that in non-bailable offences falling in the second category (punishable with imprisonment for less than ten years) the grant of bail is a rule and refusal an exception. Bail will be declined only in extraordinary and exceptional circumstances including

likelihood of abscondence, tampering with evidence, danger of repetition, or previous conviction.

8. A significant factor favoring bail is the completion of investigation and submission of challan. The Supreme Court has consistently recognized that once investigation is complete and all evidence is in documentary form, the risk of tampering with evidence is substantially diminished. In *Sheraz through Muhammad Rais Khan v. The State* (Criminal Bail Application No. 754 of 2016), the Sindh High Court noted that the case entirely depends upon documentary evidence which seems to be in possession of the prosecution and challan has already been submitted thereby justifying grant of bail.

9. The prosecution case in the instant matter is primarily based on documentary evidence including alleged fake government orders, cheques, and written agreements. Since the investigation is complete and all material evidence is in documentary form with the prosecution, there is no realistic possibility of the applicant tampering with evidence. A critical weakness in the prosecution case is the inexplicable delay of approximately four years between the alleged discovery of fraudulent documents in 2021 and the registration of FIR in January 2025. The Supreme Court has repeatedly emphasized that unexplained delays in reporting crimes cast serious doubt on the genuineness of allegations. In *Shabir Muhammad v. The State* (Criminal Bail Application No.1623 of 2023), the Sindh High Court observed that substantial delays without plausible explanation constitute grounds for granting bail.

10. The complainant's silence for nearly four years, despite allegedly discovering the fraudulent nature of documents in 2021, raises fundamental questions about the authenticity of his allegations and

suggests the case may be motivated by civil dispute rather than genuine criminal complaint.

11. The evidence demonstrates that the instant criminal case has its genesis in a civil dispute concerning a contract between the parties. Admittedly, the alleged amount paid to the applicant by the complainant was for an illegal object; therefore, it is for the learned trial court to determine at the time of trial, whether it was a *valid* contract or *void* agreement between the parties and can be enforced both under civil and criminal law. The Supreme Court has consistently cautioned against the criminalization of civil disputes. In *Muhammad Tanveer v. The State* (PLD 2017 SC 733), the Court emphasized that while criminal and civil proceedings can run concurrently, courts must remain vigilant against the misuse of criminal process for civil disputes. The existence of dishonored cheques issued by the complainant to the applicant, the breach of mango orchard agreement, and the subsequent demand for money return clearly indicate a civil contractual dispute that has been inappropriately criminalized. Courts should be reluctant to allow criminal law to be used as a tool for debt recovery or civil claim enforcement.

12. The applicant's medical condition as a heart and diabetic patient, particularly his hospitalization at NICVD Khairpur on 14th December 2024 (one day before the alleged threatening incident on 15th December 2024), creates a significant contradiction in the complainant's version. Medical records establishing the applicant's hospitalization on 14th December, 2024 make it highly improbable for him to have threatened the complainant the following day as alleged. While medical conditions alone may not justify bail, when combined with contradictory evidence regarding the alleged incident, they support the defense of false implication and justify consideration for bail.

13. The Supreme Court in *Tariq Bashir v. The State* (PLD 1995 SC 34) enumerated specific exceptional circumstances warranting refusal of bail in non-prohibitory offences: likelihood of abscondence, tampering with evidence, danger of repetition, and previous conviction. The record demonstrates absence of these exceptional circumstances:

- No flight risk: The applicant has deep roots in the community and has been consistently appearing before courts in multiple bail applications.
- No evidence tampering risk: Investigation is complete and evidence is documentary No repetition danger: The alleged offences are specific to the transaction with complainant.
- No previous conviction: No evidence of prior criminal record.

14. The totality of circumstances including four years delay, civil dispute background, and the timing of criminal complaint following civil disagreement strongly suggests false implication motivated by the complainant's desire to pressurize the applicant in the civil matter. The applicant has been in custody since 22nd January 2025, representing more than 9 months of pre-trial detention. The Supreme Court has consistently held that prolonged detention without trial, particularly in cases not falling within prohibitory clause, constitutes a factor favoring grant of bail. In *Abdul Saboor v. State* (2022 SCMR 592), the Supreme Court observed that liberty of a person is a precious right which cannot be taken away without exceptional foundations and granted bail after noting extended custody periods.

15. The constitutional guarantee of personal liberty under Article 9 of the Constitution requires that pre-trial detention be justified by compelling circumstances, which are absent in the instant case. The Supreme Court in *Muhammad Tanveer v. The State* (PLD 2017 SC 733) expressed concern about courts refusing bail on flimsy grounds in cases not falling within Section 497 prohibition, noting that this practice should come to an end because the public, particularly accused persons charged for such

offences are unnecessarily burdened with extra expenditure and this Court is heavily taxed because leave petitions in hundreds are piling up.

16. This judicial policy strongly favors liberal grant of bail in cases like the present where offences do not fall within prohibitory clause and exceptional circumstances are absent. It is well-established that at the bail stage, courts are not required to conduct a mini-trial or make definitive findings regarding guilt or innocence. The standard is whether there are reasonable grounds for further inquiry. In Criminal Bail Application No.1724 of 2023, the Sindh High Court noted that prosecution case is based upon documentary evidence and allegations against the applicant/accused is yet to be determined at trial, thereby justifying bail.

17. The documentary nature of evidence and the disputed questions of fact make this an appropriate case for further inquiry at trial rather than pre-trial detention. After comprehensive analysis of all relevant factors, this Court is satisfied that the applicant has made out a compelling case for bail. The convergence of multiple factors - the non-prohibitory nature of offences, completed investigation, substantial unexplained delay in reporting, civil dispute background, contradictory medical evidence, absence of exceptional circumstances, prolonged detention, and documentary nature of evidence collectively establishes that this is a fit case for grant of bail.

18. The Supreme Court's binding precedent in *Tariq Bashir v. The State* mandates that in cases not falling within the prohibitory clause of Section 497, the grant of bail is a rule and refusal an exception. The prosecution has failed to establish any exceptional circumstances that would justify deviation from this fundamental principle. While the illegal nature of the mango orchard agreement significantly undermines the complainant's credibility, this Court's decision to grant bail rests on broader legal grounds including the classification of offences, completed investigation, delay in

reporting, civil dispute nature, and absence of exceptional circumstances. The totality of evidence suggests that the applicant has been falsely implicated in a case that is essentially civil in nature but has been given criminal coloring.

19. The prolonged incarceration of nearly 8 months without trial, combined with the documentary nature of evidence and completion of investigation, makes continued detention unjustifiable. The constitutional guarantee of personal liberty requires that pre-trial detention be supported by compelling reasons, which are conspicuously absent in this case.

20. Accordingly, this criminal bail Application is allowed. The applicant Maqsood Ahmed is directed to be released on bail, subject to furnishing his solvent surety in sum of Rs.5,00,000 (Five Hundred Thousand only) and P.R bond in the like amount to the satisfaction of the learned trial court. Needless to mention that the above assessments are tentative in nature and shall not affect the merits of trial.

J U D G E