

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2264 of 2025

Applicant : Ahmed Khaskheli, through M/s. Muhammad Jamil and Sarosh Jamil, Advocates.
Complainant : Zameeran Khatoon, through Mr. Khadim Hussain Soomro, Advocate.
Respondent : The State, through Mr. Muhammad Noonari, D.P.G.
Date of Hearing : 30.10.2025
Date of Order : 30.10.2025

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ORDER

TASNEEM SULTANA, J: By this order, the applicant seeks post-arrest bail in Crime No. 536 of 2025 registered at Police Station Sachal, Karachi, under Sections 406 and 420, PPC. The earlier bail plea before the learned Judicial Magistrate-X, Malir, was declined vide order dated 10.06.2025, and the subsequent application before the learned Additional Sessions Judge-I (MCTC), Malir, was also dismissed on 09.07.2025. Hence, the present application.

2. Brief facts of the prosecution case, as gathered from the FIR lodged by the complainant Mst. Zameeran Khatoon W/o Sajjad Hussain on 10.04.2025 at 11:30 a.m., are that her husband was out of the city on 09.04.2025, and during that time, she along with her maternal uncle Dilber went outside the home. It is alleged that gold ornaments weighing **848 grams** were lying in the house which she handed over to her cousin Ahmed Khaskheli (the present applicant) as *amanat*, with the request that the same be returned the next day. She further alleged that upon her demand, the applicant avoided returning the ornaments, switched off his mobile phone, and later showed her an application addressed to P.S. Sachal claiming that a robbery had occurred in which the gold was also taken away; thereby, he became dishonest and tried to usurp her property.

3. Learned counsel for the applicant argued that the entire case is false and motivated by mala fide intention on the part of the complainant and her relatives; that the FIR was lodged after more than **34 hours of unexplained delay**; and that before registration of the FIR, the applicant himself had moved a written application on

09.04.2025 at 9:30 a.m. to the SHO P.S. Sachal, reporting that while going on his vehicle, three unknown motorcyclists had snatched from him cash, two mobile phones, and the same gold ornaments which had been entrusted to him (Annexure “F”); that as per the *police record entry dated 10.04.2025 at 04:15 a.m.*, made by *Liaqat Ali*, the brother of the complainant, through helpline “15”, it was reported that his sister Zameeran Bibi had entrusted **25 to 30 tola gold** to the applicant, while the FIR later exaggerated the quantity to **848 grams**, showing a manifest inconsistency and material contradiction on the most vital fact; that such contradiction creates serious doubt as to the genuineness of the allegation of cheating or breach of trust; that the alleged offences under Sections 406 and 420 PPC are mutually inconsistent, as one contemplates *entrustment and subsequent misappropriation* whereas the other requires *deception at the inception*, and both cannot simultaneously stand in law upon the same transaction.

4. Conversely, learned APG assisted by learned counsel for the complainant opposed the grant of bail, contending that the applicant misused the complainant’s trust and fabricated the story of robbery to avoid returning the ornaments, and that both provisions of law were rightly applied in view of his dishonest conduct.

5. Heard. Record perused.

6. Upon tentative assessment of the record, it appears that the initial entry made on 10.04.2025 at 04:15 a.m. by Liaqat Ali on behalf of the complainant, reporting to the *15 helpline*, stated that the complainant had handed over **25 to 30 tola gold** to the applicant, while the subsequent FIR mentioned **848 grams** of gold ornaments. This striking inconsistency in the quantity of gold a core component of the alleged offence casts serious doubt upon the veracity of the prosecution version. Moreover, the contemporaneous application moved by the applicant himself on 09.04.2025 before the SHO P.S. Sachal, acknowledging the entrustment and reporting the alleged snatching incident, was duly received and stamped on the same day. This prior conduct of the applicant, on the very day of occurrence, substantially weakens the element of dishonest intention, which is the cornerstone of both Sections 406 and 420 PPC. The offences charged do not fall within the prohibitory clause of Section 497 Cr.P.C.

7. It is settled law that for an offence under **Section 406 PPC**, there must be clear entrustment followed by dishonest misappropriation, whereas for **Section 420 PPC**, the deception must exist at the inception of the transaction. The two offences, by their very nature, are *mutually exclusive* and cannot ordinarily coexist on identical facts, as no act can simultaneously amount to both entrustment and initial deception. Prima facie, therefore, the material on record calls for **further inquiry** into the guilt of the applicant within the meaning of Section 497(2) Cr.P.C. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail as of right. Reliance is placed on the case of *Salman Mushtaq & others v. The State through P.G Punjab and another* (2024 SCMR 14) wherein the Hon'ble Supreme Court has held as under:-

6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

8. Accordingly, the application was allowed and the applicant Ahmed Khaskheli S/o Abdul Salam was admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the trial Court by a short order dated 30.10.2025 and these are the reasons for the same.

9. It is clarified that the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial.

JUDGE

Ayaz Gul