

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1236 of 2025

Applicant : Muhammad Faisal, through Mr. Mohammad Aslam, Advocate.
Complainant : Danish Matloob, through Mr. Pervaizul Qadir Memon, Advocate.
Respondent : The State, through Ms. Rubina Qadir, Addl. P.G.
Date of Hearing : 14.11.2025
Date of Order : 14.11.2025

ORDER

TASNEEM SULTANA, J: Through this Criminal Bail Application, the applicant **Muhammad Faisal** seeks pre-arrest bail in Crime No. **215 of 2025**, registered under Sections **420 and 406 PPC** at Police Station **Khadar**, Karachi.

2. Having been rejected his earlier application for such concession by the learned **Xth Additional Sessions Judge, Karachi South** in **B.B.A. No. 1493 of 2025**, vide order dated **13-05-2025**, the applicant now seeks the same relief before this Court.

3. The brief facts of the prosecution case are that the complainant, who is stated to be engaged in the business of purchase and sale of vehicles at Lahore, ordered a Toyota Aqua model 2021 from Japan and, for the purposes of customs clearance, contacted the present applicant who, according to the FIR, runs a clearing office under the name of Akhtar & Sons at Poona Wala Apartment, Bhori Road, Khadar. It is alleged that the applicant was handed over the export certificate and relevant documents; that thereafter he failed to clear the vehicle from the port; that later he informed the complainant that the vehicle could be sold to another party; that both allegedly agreed upon a sale consideration of Rs. 6,800,000/-, that out of such amount the applicant transferred Rs. 500,000/ into the complainant's manager's account and subsequently paid a total of Rs. 1,930,000/-, and that despite lapse of several months the remaining amount of Rs. 4,870,000/ was not paid and was allegedly misappropriated by the applicant.

4. Learned counsel for the applicant contended that the dispute, on the face of it, arises out of a business transaction relating to the import and onward sale of a vehicle; that the FIR itself acknowledges an agreed sale price; that part payments through bank transfers were admittedly made by the applicant, which include the transfer of Rs. 500,000/ on 02.01.2025 and another amount of Rs. 250,000/ on 07.01.2025; and that the remaining liability, if any, may be the subject-matter of civil adjudication but does not constitute criminal breach of trust.

5. Learned counsel further contended that no dishonest intention at the inception of the transaction is made out; that the entire case rests on a monetary dispute relating to accounts and settlement; that the applicant has already filed Criminal Misc. Application No. 1388/2025 before the learned Sessions Judge alleging harassment by certain police officials and the complainant, which indicates escalation of a business dispute into a collateral controversy; that the applicant has no criminal antecedents; and that his case squarely falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C.

6. Conversely, learned Addl. P.G assisted by the counsel for complainant opposed the confirmation of bail and supported the allegations set forth in the FIR and submitted that the applicant has been nominated with specific allegations relating to a business deal which resulted in financial loss; that the entrustment of documents and non-payment of the outstanding amount constitute the offence; however, he does not dispute that the alleged misappropriated amount is the subject of a monetary settlement between the parties and that the applicant made partial payments. He further submitted that the evidence collected so far is documentary in nature and available with the investigating agency.

7. Heard. Record perused.

8. It is a settled principle that while deciding a bail plea, it is not required to undertake a deeper appreciation or detailed evaluation of the evidence but only to make a tentative assessment as to whether reasonable grounds exist for believing that the applicant is connected with the alleged offence or the case falls within the ambit of further inquiry.

9. That the allegation in the FIR is that the complainant had entrusted the applicant with the documents of a Toyota Aqua for customs clearance and, thereafter, both allegedly agreed to sell the vehicle for Rs.6,800,000/-, out of which the applicant paid Rs. 1,930,000/-, but failed to pay the remaining amount and thereby misappropriated the same. However, the FIR itself acknowledges prior business dealings between the parties; that the dispute prima facie originates from a mutually agreed sale transaction; that the payments made by the applicant are admitted; and that the liability, if any, relates to calculation and recovery of an outstanding amount. It also appears that entrustment, misappropriation, and dishonest intention at the inception are matters requiring evidence and cannot be conclusively determined at this stage; that the allegations, even if accepted in their entirety, give rise to a civil dispute with criminal colour; and that the ingredients of Sections 406 and 420 PPC require strict proof of deception or misappropriation which, at this stage, do not appear to be free from doubt. The applicant's grievance of harassment before the learned Sessions Judge, though not determinative of the FIR, further shows that the matter between the parties is intertwined with reciprocal allegations and requires adjudication on evidence.

10. In these circumstances, the material available on record indicates that the controversy arises from a business transaction wherein certain payments are admitted while the remaining amount is disputed. At this preliminary stage, the exact nature and extent of the parties' respective obligations cannot be determined until evidence is recorded by the trial Court. Consequently, the matter falls within the ambit of **further inquiry** as envisaged under 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.....

11. Accordingly, interim pre-arrest bail granted to the applicant vide order dated **30.04.2025** is hereby **confirmed** on the same terms and conditions.

12. The observations made herein are purely tentative in nature and shall not prejudice the trial Court at any stage.

JUDGE

Ayaz Gul