

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2793 of 2025

Applicant : Shoaib Naeem son of Muhammad Naeem through M/s. Raja Murtaza Janjua and Saadat Ali Jiskani, Advocates

Complainant : Muhammad Sajjad son of Muhammad Siddiq through Mr. Zaheer Hussain, Advocate

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 09.12.2025

Date of decision : 09.12.2025

O R D E R

Jan Ali Junejo, J. - This Criminal Bail Application under Section 497 Cr.P.C. has been filed by the applicant/accused seeking post-arrest bail in Crime No. 590/2025, registered at Police Station Darakhshan, Karachi, under Sections 406, 506-B, 34 PPC, being aggrieved by the orders dated 29.08.2025 passed by the learned Judicial Magistrate-V, Karachi South, and 23.09.2025 passed by the learned Additional Sessions Judge-III, Karachi South, whereby his bail pleas were dismissed.

2. The prosecution case, as reflected in the FIR, is that the complainant is engaged in meat export business and claims to have entered into commercial dealings with the accused persons for export of meat consignments to Qatar. It is alleged that one container weighing 11,327 kilograms, valued at USD 47,573, was exported and received in Qatar, but payment was not made within the stipulated period. It is further alleged that on persistent demand, the complainant was extended threats through telephone calls and allegedly by two unidentified persons on a motorcycle in Karachi. The applicant was arrested and remanded to judicial custody and is presently confined in jail.

3. Learned counsel for the Applicant contended that the impugned FIR stems purely from a commercial transaction relating to export of meat

consignments, and that criminal law has been invoked with mala fide intent to pressurize the applicant for recovery of alleged dues. It was argued that the essential ingredient of *entrustment*, mandatory to attract Section 406, P.P.C., is completely absent, as ownership in the goods had passed upon delivery. The FIR, according to learned counsel, suffers from an unexplained delay of about seven months, which casts serious doubt on the veracity of the allegations. The alleged threats are vague, uncorroborated, and attributed to unidentified persons, while the applicant claims to have been abroad at the relevant time. It was further submitted that the offences do not fall within the prohibitory clause of Section 497, Cr.P.C., the case calls for further inquiry, and the courts below have passed mechanical orders; hence, the applicant is entitled to post-arrest bail.

4. Learned counsel for the Complainant, on the other hand, vehemently opposed the bail application, submitting that the applicant is specifically nominated in the FIR and has committed criminal breach of trust involving a huge monetary loss to the complainant. It was argued that despite receipt of the meat consignment in Qatar, the applicant deliberately withheld payment, demonstrating dishonest intention. Learned counsel further contended that the complainant and his family were subjected to threats, which aggravate the offence and disentitle the applicant to the concession of bail. It was thus prayed that the bail application be dismissed.

5. Learned Additional Prosecutor General for the State adopted and supported the arguments advanced by learned counsel for the complainant, contending that sufficient *prima facie* material exists against the applicant, who is directly involved in the offence. It was argued that the magnitude of the alleged amount, coupled with allegations of intimidation, reflects the seriousness of the crime and militates against the grant of bail. Learned A.P.G. therefore prayed that the application for post-arrest bail be declined.

6. I have heard learned counsel for the parties at length and have perused the record with their able assistance. At the outset, it may be noted that the offence under Section 406, P.P.C. is punishable with imprisonment of either description for a term which may extend to seven years, or with fine, or with both, while Part-I of Section 506, P.P.C. carries punishment up to two years and Part-II up to seven years. Admittedly, none of the alleged offences falls within the prohibitory clause of Section 497(1), Cr.P.C. It is a well-settled principle of law, authoritatively laid down

in **PLD 1995 SC 34 (Tariq Bashir v. The State)** and consistently followed thereafter, that in cases involving non-prohibitory offences, grant of bail is a rule and refusal an exception, unless exceptional or extraordinary circumstances are shown to exist. A tentative assessment of the available material reveals that the FIR itself discloses admitted commercial dealings between the parties relating to export of meat consignments. The complainant has acknowledged that previous transactions were successfully completed. The alleged non-payment of sale proceeds, even if accepted at face value, appears to arise out of an alleged breach of contractual obligation, for which civil remedies are ordinarily available. Whether the transaction constitutes criminal breach of trust or is merely of a civil nature requires deeper appreciation of evidence, which is not permissible at the bail stage. Moreover, the FIR has been lodged after a substantial and unexplained delay of several months, which, under settled law, creates reasonable doubt and renders the prosecution case open to further inquiry within the contemplation of Section 497(2), Cr.P.C. The allegation of criminal intimidation is also based on general and vague assertions, partly attributed to unidentified persons, while the precise role of the applicant, particularly with regard to his physical presence and participation, is yet to be established at trial. No recovery is to be effected from the applicant, the investigation does not appear to require further custodial interrogation, and his continued incarceration would not serve any useful or lawful purpose. Furthermore, the reasoning adopted by the courts below, particularly the refusal of bail solely on the ground that the alleged amount involved is "huge" or amounts to "financial murder", is not a legally sustainable ground to deny bail in non-prohibitory offences, as repeatedly held by the Superior Courts.

7. In view of the foregoing tentative assessment, it appears that the prosecution case against the applicant is not free from doubt and calls for further inquiry. The applicant is, therefore, entitled to the concession of post-arrest bail as a matter of legal right.

8. For the reasons recorded above, this Criminal Bail Application is allowed. The applicant Sohaib Naeem S/o. Muhammad Naeem is hereby admitted to post-arrest bail in Crime No. 590/2025, registered at Police Station Darakhshan, Karachi, under Sections 406, 506-B, 34 PPC, subject to his furnishing: Solvent surety in the sum of Rs. 5,00,000/- (Rupees Five Hundred Thousand only), and Personal recognizance bond in the like amount, to the satisfaction of the learned trial Court. The observations

herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. These are the detailed reasons of the Short Order dated: 09.12.2025.

JUDGE

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