

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2535 of 2025

Applicant : Muhammad Ishaque
through M/s. Mujtaba Sohail Raja and
Fayaz Ahmed Memon, Advocates

Complainant : Mehmood-ul-Haq Ghouri
through Mr. Malik Sadaqat Khan
assisted by Ali Shahryar Khan,
Law Officer, SSGC

Respondent : The State
through Mr. Mohammad Noonari,
Deputy Prosecutor General, Sindh

Date of hearing : 16.12.2025

Date of order : 16.12.2025

O R D E R

TASNEEM SULTANA, J.— Through this Criminal Bail Application, the applicant Muhammad Ishaque son of Rab Nawaz seeks concession of pre-arrest bail in FIR No.05 of 2024 registered at Police Station SSGC, Karachi, under Sections 15, 17 & 24 of the Gas (Theft Control & Recovery) Act, 2016; his earlier application having been dismissed by the learned Gas Utility Court, Karachi Division vide order dated 04.09.2025; hence this application for the same concession.

2. Brief facts of the prosecution case, are that on 15.01.2024, upon informer information, the complainant, an Engineer of Sui Southern Gas Company, along with technical staff and a police party, proceeded to Plot No.230/A, Haji Mehmood Doding Goth, Manghopir, Karachi at about 17:00 hours, where a dyeing factory was found established. It is alleged that two SSGC gas meters bearing Nos. W-550242 and W-550248 were installed at the outer wall of the premises; however, upon inspection, it was claimed that gas was being dishonestly abstracted through an underground concealed steel/iron pipe from the main line and was being utilized for running seven injector burners and one 30 KVA generator, wherefrom electricity was

generated to operate the dyeing machines. The alleged theft connection was thereafter disconnected, and one red gas kit burner, one injector burner, one Osaka battery, one sucker machine along with rubbers/pipes were taken into custody through a memo of recovery, whereas the generator and remaining injector burners could not be seized as the same were affixed. The applicant, alleged to be the owner of the factory, was stated to have been looked for but was not found present at the spot. Photographs of the place were taken, an inspection report was prepared, and on the basis thereof the instant FIR was registered

3. Learned counsel for the applicant contended that the applicant was not present at the spot at the relevant time and has been implicated merely on the basis of ownership; that two commercial gas meters were admittedly installed and substantial gas bills were regularly raised and paid; that the alleged concealed steel/iron pipe, forming the foundation of the allegation of gas theft, has neither been recovered nor produced; that most of the machinery, including the generator and injector burners, admittedly remained un-seized; that no independent witness of the locality was associated despite the alleged raid having taken place within a populated area; that the initiation of the process is stated to be on informer information, whose legal effect is only initiatory and does not dispense with statutory requirements of proof; that compliance with Section 23 of the Gas (Theft Control & Recovery) Act, 2016 regarding lawful authorisation for search and inspection has not been demonstrated at this stage; that the prosecution case presently rests upon officials of the complainant utility and police personnel; that the statutory requirements envisaged under the Gas (Theft Control & Recovery) Act, 2016, particularly those relating to authorisation and search under Section 23, are not apparent from the record; that investigation has been completed, challan submitted and charge framed; and that the case, on the face of the record, gives rise to issues warranting further inquiry.

4. Per contra, learned Special Prosecutor SSGC opposed the instant application and submitted that the allegation pertains to theft of a public utility governed by a special statute; that the inspection was conducted on informer information and the offence was detected during inspection; that recoveries were effected at the spot and inspection material, including photographs, supports the prosecution case; that in terms of Section 24 of

the Gas (Theft Control & Recovery) Act, 2016, the offences are cognizable and non-bailable in respect of non-domestic consumers; that recoveries were effected at the spot and inspection material supports the prosecution case; and that the concession of pre-arrest bail, being an extraordinary relief, is not warranted in the facts of the case.

5. Heard. Record perused.

6. Tentative assessment of the record, viewed in the context of the scheme of the Gas (Theft Control & Recovery) Act, 2016, reflects that although the said enactment is a special statute designed to safeguard a public utility and Section 24 thereof declares the relevant offences cognizable and non-bailable, such statutory severity does not, by itself, dispense with the requirement that criminal liability be founded upon material collected strictly in accordance with law. At the stage of pre-arrest bail, the Court is enjoined to undertake an independent and tentative appraisal of the available record to ascertain whether the circumstances of the case disclose questions warranting further inquiry, as the seriousness of the allegation, howsoever grave, cannot alone be treated as conclusive.

7. The prosecution allegation is of dishonest abstraction of gas through an underground concealed steel/iron pipe; however, the said pipe, which constitutes the primary instrumentality of the alleged offence, has neither been recovered nor produced before the Court. The articles shown to have been taken into custody, namely a gas kit burner, injector burner, battery and sucker machine, are not, by themselves, the alleged illegal connection. Whether any unauthorised concealed connection in fact existed, and whether the applicant can be attributed conscious and deliberate involvement therein, are matters which necessarily require determination through evidence. It further emerges from the FIR itself that at the time of the alleged inspection the applicant was not apprehended at the spot and was merely stated to have been looked for but found unavailable.

8. It is also of relevance that, despite the alleged occurrence having taken place within a locality, no independent witness has been associated, and the prosecution case presently rests upon inspection conducted by officials of the complainant utility and police personnel. The evidentiary worth and probative value of such material are matters to be assessed by the trial Court at the appropriate stage.

9. The initiation of the process is stated to be on informer information. Section 2(j) of the Gas (Theft Control & Recovery) Act, 2016 defines an "informer" as any person who brings or provides specific information in

writing to a Gas Utility Company regarding an offence under the Act. Such information, even where available within the meaning of the statute, serves to set the process in motion; its legal strength remains initiatory and auxiliary, and its probative value depends upon what is subsequently collected through lawful inspection and investigation. The prosecution has stated that the informer information is confidential; at this stage, the Court is not inclined to delve into its content or disclosure, suffice it to observe that informer input does not, by itself, substitute the statutory requirements of proof.

10. It is further of relevance that Section 23 of the Act contemplates search by an officer or employee of the Gas Utility Company not below BPS-17 or equivalent, duly authorised in that behalf. At this stage, the material placed before the Court does not clearly disclose any order, notification or authorisation demonstrating that the complainant, though described as an Engineer of the Gas Utility Company, was empowered in terms of the said provision to conduct the search and inspection. The legal effect of such authorisation, or the absence thereof, is a matter to be examined on evidence and cannot be conclusively determined at the bail stage.

11. The record further reflects the existence of duly installed commercial meters coupled with a substantial billing and payment history; the evidentiary effect thereof, including whether the alleged abstraction was beyond metered supply and whether the requisite mens rea is established, also falls within the domain of trial. It is an admitted position emerging from the record that investigation has been completed, challan has been submitted and charge has been framed.

12. In these circumstances, the limited inquiry is whether the case, on tentative assessment, discloses circumstances calling for further inquiry. The questions relating to statutory compliance, legality of inspection, recovery of the alleged illegal connection and attribution of conscious involvement are all matters to be adjudicated upon evidence and cannot be conclusively resolved at this juncture, gives rise to issues which call for further inquiry.

13. It is a settled principle that bail is a rule and jail is an exception, and no person should be subjected to humiliation and disgrace through arrest when *prima facie mala fide* is apparent. Reliance is placed on **Tariq Bashir v. The State (PLD 1995 SC 34), Muhammad Zubair v. The State (2019 SCMR 389)** and **Syed Imran Ali Shah v. The State (2020 SCMR 122)**.

14. In view of the foregoing discussion and the settled principles governing the grant of pre-arrest bail, the applicant has been able to make out a case for confirmation of interim relief. Accordingly, this Criminal Bail Application is allowed and the interim pre-arrest bail granted to the applicant, Muhammad Ishaque, vide order dated 25.09.2025, was confirmed on the same terms and conditions by my short order dated 16.12.2025, these being the reasons therefor. The applicant shall attend the trial regularly and shall not misuse the concession of bail.

16. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE

Nadeem