

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2140 of 2025

Applicant : Muhammad Shahzad, Through:
Mr. Khalid Nawaz Khan Marwat,
Advocate

Complainant : Syed Arif Hussain, Through:
M/s. Jam Asif Mehmood and Gohar
Mehmood, Advocates

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

Date of hearing : 02.12.2025

Date of Order : 02.12.2025

ORDER

Jan Ali Junejo, J:-- The instant criminal bail application under Section 498 Cr.P.C. has been filed by the applicant/accused Muhammad Shahzad, seeking pre-arrest bail in respect of the Crime No. 380 of 2025 U/S 408 / 420 PPC P.S. Sukhan, District Malir after dismissal of his bail before arrest application by the learned VIth Additional Sessions Judge, Malir, vide order dated 28.07.2025. This Court granted ad-interim bail to the Applicant vide Order dated: 25.08.2025.

2. Briefly stated, the FIR has been lodged at the instance of the complainant Syed Arif Hussain alleging that the applicant, while working as Account Manager of Oil World Company, was entrusted with salary cheques, overtime payments, scrap sale proceeds, and loan amounts, which he allegedly misappropriated, causing a total

alleged loss of approximately Rs.7.48 million. The applicant is accused of committing criminal breach of trust and cheating, punishable under Sections 408 and 420 PPC.

3. Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated with mala fide intent; the FIR suffers from inordinate, unexplained delay, undermining the veracity of the accusations; the matter is essentially civil, stemming from accounts, internal audit objections, and alleged financial adjustments between employer and employee, resting entirely on documentary/internal audit material that requires trial-level scrutiny; no independent witness has been cited; the essential ingredients of dishonest intention for offences under Sections 408 and 420 PPC are not prima facie made out; the alleged offences do not fall within the prohibitory clause of Section 497 Cr.P.C.; the applicant is neither a hardened criminal nor a flight risk, has joined the investigation, no recovery has been shown from him, and he has not misused the concession of ad-interim pre-arrest bail granted earlier by this Court; he, therefore, prayed for confirmation of bail.

4. Learned counsel for the complainant controverted the above, asserting that the applicant, being entrusted with company funds, committed serious criminal breach of trust and deception resulting in substantial financial loss; the internal audit has flagged concrete discrepancies, and recovery is yet to be effected; in these

circumstances, discretionary relief should not be extended in favour of an employee who has allegedly violated fiduciary duties; he prayed for dismissal of the bail.

5. Learned Additional Prosecutor General, Sindh, aligned with the complainant's stance, contending that the allegations reflect a systematic misappropriation and breach of trust by an employee, attracting Sections 408 and 420 PPC; custodial requirements remain for securing recovery and ensuring an unhampered investigation; given the gravity and ongoing probe, the applicant does not merit confirmation of ad-interim bail and the application be dismissed.

6. Heard learned counsel for the parties and perused the record with their assistance. At the bail stage, the Court undertakes only a tentative assessment rather than a deeper or conclusive appreciation of evidence. The allegations against the applicant center on financial transactions, internal audit observations, alleged non-deposit of amounts, and loan/adjustment entries. These are inherently documentary in nature and prima facie require a thorough probe through primary records, reconciliation statements, expert/accounting scrutiny, and trial-level evidentiary testing, which cannot be undertaken at this stage. In particular:

- The FIR was lodged after a delay of more than one month, for which no cogent or satisfactory explanation has been furnished. Such unexplained delay, in cases resting on financial/ accounting allegations, casts doubt on the prosecution's immediacy and spontaneity.

- The prosecution case substantially hinges on internal audit findings, accounts reconciliation, and alleged ledger discrepancies. These matters are best adjudicated at trial upon production of original record, opportunity of cross-examination, and, where necessary, expert opinion, rather than being conclusively inferred at the bail stage.
- The alleged offences, as presently invoked, do not fall within the prohibitory clause of Section 497, Cr.P.C. It is settled that in non-prohibitory clause matters, grant of bail is a rule and refusal an exception, unless exceptional circumstances are shown.
- No material has been placed on record to demonstrate that the applicant is a habitual offender, likely to abscond, or that he has attempted to tamper with the prosecution evidence or influence witnesses. The investigation remains predominantly document-driven, further minimizing such risk.
- The applicant has remained on ad-interim pre-arrest bail; there is nothing on record to suggest misuse of the concession, breach of any condition, or non-cooperation with the investigation.

In a closely analogous context involving Sections 408/420, P.P.C., the Honourable Supreme Court of Pakistan in *Nadeem Majeed v. The State and others (2007 SCMR 1958)* granted bail, inter alia, observed that: *“In our view, the petitioner has made out a fit case for the grant of bail in the peculiar facts and the circumstances of the case, and bail cannot be withheld by way of punishment”*.

7. It is well-settled that pre-arrest bail, though an extraordinary relief, is justified where circumstances show possible misuse of the process of law, likelihood of humiliation, or where the case requires further inquiry. The August Supreme Court has consistently held

that benefit of doubt at bail stage, even a single circumstance, is sufficient to tilt the scale in favour of the accused. At this stage, it cannot be conclusively held that the applicant acted with the requisite dishonest intention necessary to attract Sections 408 and 420 PPC, and the matter appears to call for further inquiry within the meaning of Section 497(2) Cr.P.C. In view of the foregoing discussion, this Court is of the considered view that the applicant has made out a case for confirmation of pre-arrest bail.

8. Resultantly, this Criminal Bail Application is allowed. The ad-interim pre-arrest bail granted to the applicant/accused Muhammad Shahzad S/o. Muhammad Afzal in Crime No.380 of 2025, registered at Police Station Sukhan, District Malir, for offences punishable under Sections 408 and 420 PPC, is hereby confirmed on the same terms and conditions. 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: 02-12-2025.

JUDGE