

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2293 of 2025

Applicant : Abdul Rahim son of Ali Asghar
through Mr. Mir Saifullah, Advocate

The State : Through Mr. Siraj Ahmed Khan
Chandio, Additional Prosecutor
General, Sindh

Date of hearing : 01.12.2025

Date of decision : 01.12.2025

ORDER

Jan Ali Junejo, J.- The present applicant Abdul Rahim S/o. Ali Asghar, through the instant application, seeks post-arrest bail in Crime No.1121 of 2025, registered at Police Station Shah Latif Town, Karachi, under Sections 392, 397, 34 PPC, calling in question the order dated 19.08.2025 passed by the learned IVth Additional District & Sessions Judge, Karachi (Malir), whereby his bail application was dismissed.

2. Briefly stated, the prosecution case, as set out in the FIR, is that on 01.08.2025 at about 0210 hours, the complainant Muhammad Jibran and his friend Muhammad Arsalan were present near their office situated at Double Road, Sector 16-B, when four persons riding three motorcycles allegedly arrived, brandished pistols, and snatched cash amounting to Rs.1,06,000/-, mobile phone, ATM cards, CNIC, and other documents. It is alleged that during patrolling, police reached the spot, followed the alleged culprits, and apprehended three accused persons, including the present applicant, while one accused managed to escape. From two co-accused, unlicensed pistols were allegedly recovered, whereas no recovery whatsoever was effected from the present applicant.

3. Learned counsel for the applicant contended that the applicant is a minor/juvenile and, therefore, entitled to statutory protection under the Juvenile Justice System Act, 2018; he argues that no specific role has been attributed to the applicant in the FIR; he contends that no weapon, looted property, or any incriminating article has been recovered from his

possession; he argues that, at least qua the applicant, the case calls for further inquiry within the meaning of Section 497(2) Cr.P.C.; he contends that continued detention of a juvenile is against the spirit and mandate of juvenile justice legislation; he argues that the applicant has no previous criminal record and is neither likely to abscond nor to tamper with the prosecution evidence; and lastly, he prayed for grant of bail.

4. Learned Additional Prosecutor General opposed the bail application on the ground that the offence is serious in nature; he argues that the applicant has been prima facie connected with the commission of the offence; he contends that the offence carries punishment up to ten years' imprisonment and, therefore, does not warrant the concession of bail; and lastly, he prayed for dismissal of the bail application.

5. I have considered the arguments advanced by the learned counsel for the Applicant and the learned A.P.G. for the State, and have carefully examined the record with a tentative assessment, which is permissible at the bail stage. At the very outset, it is pertinent to note that the Applicant has claimed juvenility and has placed prima facie material on record, including a birth registration certificate, which reflects that the Applicant was born on 04-01-2013 and, thus, appears to be approximately 12 years and 11 months of age. At this stage, the benefit of juvenility cannot be withheld, particularly when the law mandates a lenient and rehabilitative approach towards juveniles; however, it shall be the duty of the trial Court to verify the birth registration certificate and determine its admissibility during the course of trial. It is also an admitted position that no weapon or looted property has been recovered from the present applicant, as the alleged recovery of arms is attributed only to the co-accused persons. The role assigned to the applicant is general in nature and based on alleged association, whereas determination of guilt requires appreciation of evidence, which is the exclusive domain of the trial Court. The case of the applicant, therefore, squarely falls within the ambit of "further inquiry" as envisaged under Section 497(2), Cr.P.C.

6. In view of the foregoing discussion, considering the juvenile status of the applicant, the absence of any recovery from his possession, and the statutory mandate of the Juvenile Justice System Act, 2018, this Court is of the considered view that the applicant has successfully made out a case for grant of bail. In similar circumstances, in the case of **Sahib Ullah v. State through A.G. Khyber Pakhtunkhwa and another (2022 SCMR 1806)**, the Honourable Supreme Court of Pakistan has held that: "*In this case the petitioner was exactly sixteen years of age on the date the*

offence was committed. Therefore, the applicable provision of the Act would be its subsection (3) which provides that the petitioner has to be considered as if 'he was accused of commission of a bailable offence' if the offence is one as defined as 'minor or major offence' in the Act, which are respectively offences for which a maximum of three and seven years imprisonment is provided (sections 2(o) and 2(n) of the Act). Neither the learned Judge of the Trial Court nor the learned Judge of the High Court had considered the fact that the petitioner on the date of the commission of the offence was exactly sixteen years of age, and was not more than sixteen years of age, a fine distinction to which the learned counsel for the petitioner has drawn our attention. The date of arrest in a criminal case is immaterial; an accused has to be dealt with under the law as applicable on the date that the crime is committed. Another principle of criminal law which advances the contention of the petitioner's counsel is that if there are two possible interpretations of a provision of the law the one favourable to the accused is applicable, and all the more so when the accused is governed by a special law, which in the instant case is the Act. Therefore, for the consideration of the petitioner's entitlement to bail it needs examination whether he is accused of committing an offence which falls under the definition of a 'heinous offence' (section 2(g) of the Act), however, it is not the prosecution case that it was a 'heinous offence'." The underlining is supplied.

7. For the reasons recorded above, the instant Criminal Bail Application is allowed, and the applicant Abdul Rahim S/o. Ali Asghar is admitted to post-arrest bail in Crime No.1121 of 2025, under Sections 392, 397, 34 PPC, registered at Police Station Shah Latif Town, Karachi, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) and P.R. 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: 01.12.2025.

JUDGE