

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2530 of 2025

Applicant : Shahzad son of Muhammad Nawaz through Mr. Maqsood Ahmed Shar, Advocate

Complainant : Muhammad Kamran son of Aman Khan through Mr. Shaukat Iqbal, Advocate

The State : Ms. Rahat Ehsan, Additional Prosecutor General, Sindh

Date of hearing : 03.12.2025

Date of decision : 03.12.2025

O R D E R

Jan Ali Junejo, J.- This Criminal Bail Application under Section 497 of the Code of Criminal Procedure, 1898 has been filed by the applicant/accused, Shahzad son of Muhammad Nawaz, seeking post-arrest bail in FIR No.466 of 2025, initially registered under Sections 379/34, P.P.C. at Police Station Sachal, District East, Karachi, wherein, upon submission of the challan, Sections 380, 454 and 34, P.P.C. were subsequently added. The present bail application arises out of the impugned orders dated 29.04.2025 and 19.05.2025 passed by the learned Judicial Magistrate-V and the learned Additional Sessions Judge-VII, Malir, Karachi, respectively, whereby the bail applications of the applicant were declined. The applicant is presently confined in District Jail, Landhi, Karachi, and has invoked the jurisdiction of this Court for grant of post-arrest bail.

2. Briefly stated, the prosecution case is that on 23.03.2025 at about 1550 hours, the complainant, who is a security officer at KDA Grid Station, Scheme-33, Karachi, allegedly apprehended the applicant at the spot while he was allegedly stealing copper wire, whereas two other accused persons managed to flee. It is alleged that a wire cutter and about five kilograms of copper wire were recovered from the applicant. Initially, the FIR was registered under section 379 PPC, which was subsequently substituted with sections 380, 454 and 34 PPC during the course of investigation.

3. The applicant sought post-arrest bail before the learned Judicial Magistrate-V, Malir, Karachi, which was dismissed vide order dated 29.04.2025. Thereafter, a second bail application was also dismissed by the learned Additional Sessions Judge-VII, Malir, Karachi vide order dated 19.05.2025. Hence, the present bail application.

4. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. He argues that the alleged offences do not fall within the prohibitory clause of Section 497, Cr.P.C. He further argues that the alleged recovery is doubtful and has been shown without associating any independent witness despite their availability. He contends that the investigation has been completed and the challan has already been submitted. He further contends that the applicant has remained behind bars for about six months. Lastly, he argues that, at best, the case calls for further inquiry under Section 497(2), Cr.P.C. On these grounds, he prays that the applicant be admitted to bail on suitable terms.

5. Learned counsel for the complainant opposed the bail application and contended that the applicant is directly involved in the commission of the alleged offences. He argues that the recovery of stolen articles has been effected from the applicant, which *prima facie* connects him with the crime. He further argues that the manner of occurrence reflects deliberate criminal intent and that the applicant does not deserve the concession of bail at this stage. On these grounds, he prays that the bail application be dismissed.

6. Learned Additional Prosecutor General for the State also opposed the bail application. She contends that sufficient incriminating material is available on record to link the applicant with the alleged offences. She further contends that the recovery has been made in accordance with law and that the release of the applicant on bail may adversely affect the prosecution case. On these grounds, she prays that the bail application be dismissed.

7. I have considered the arguments advanced by the learned counsel for the applicant, the learned counsel for the Complainant, as well as the learned Additional Prosecutor General for the State, and have carefully examined the record with a tentative assessment, which is permissible at the bail stage. A perusal of the material available on record *prima facie* reveals that the FIR was initially registered under Section 379, P.P.C., and that Sections 380 and 454, P.P.C. were subsequently added at the stage of submission of the challan. Section 379, P.P.C. is punishable with

imprisonment extending up to three years, whereas Section 380, P.P.C. provides punishment which may extend up to seven years. As regards Section 454, P.P.C., it envisages two different scales of punishment depending upon the nature of the offence intended to be committed. Ordinarily, lurking house-trespass or house-breaking with intent to commit any offence punishable with imprisonment is punishable with imprisonment of either description for a term which may extend to three years, along with fine. However, where the intention is to commit theft, the punishment may extend up to ten years, in addition to fine. At this stage, it is yet to be determined at trial whether any lurking house-trespass or house-breaking was actually committed and, if so, whether the same was with intent to commit any offence in general or specifically the offence of theft. *Prima facie*, the alleged offences do not fall within the prohibitory clause of Section 497(1), Cr.P.C.; therefore, the grant of bail is a rule and its refusal an exception, unless exceptional circumstances are shown to exist.

8. The alleged recovery, though shown to have been effected, is a matter to be examined during trial. The manner of recovery, absence of independent mashirs despite availability, and other factual aspects raise questions which *prima facie* bring the case within the ambit of further inquiry as contemplated under section 497(2) Cr.P.C. Furthermore, the investigation has already been completed and the applicant is no longer required for investigation purposes.

9. As regards the previous involvement reflected in the CRO, it is settled law that mere involvement, without a conviction, cannot by itself be made a sole ground for refusal of bail, particularly where the offence does not fall within the prohibitory clause. It is settled law that mere registration of a number of criminal cases against an accused, without any verdict of conviction from a competent court, cannot by itself be treated as proof of guilt or habitual criminality, nor can it be a valid ground for refusal of bail. The principle of presumption of innocence remains applicable until guilt is established through due process of law. In similar circumstances, in the case of ***Ali Anwar Paracha v. The State and another (2024 SCMR 1596)***, the Honourable Supreme Court of Pakistan held that: “As far as the argument of the learned counsel for the complainant that other cases of similar nature have been registered against the petitioner is concerned, mere registration of other criminal cases against an accused does not disentitle him for the grant of bail if on merits he has a *prima facie* case. Reliance is placed on *Moundar and others v. The State (PLD 1990 SC 934)*, *Muhammad Rafiq v. State (1997 SCMR*

412), *Syeda Sumera Andaleeb v. The State* (2021 SCMR 1227) and *Nazir Ahmed alias Bhaga v. The State* (2022 SCMR 1467)".

10. The applicant has remained in custody for a considerable period, the trial is likely to take time, and no exceptional circumstance has been pointed out by the prosecution which may justify continued incarceration at this stage.

11. For the foregoing reasons, this Criminal Bail Application is allowed. The applicant/accused Shahzad son of Muhammad Nawaz is admitted to bail in FIR No.466 of 2025, under Sections 380, 454 and 34 PPC, registered at Police Station Sachal, District East, Karachi, subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) and a Personal Recognizance Bond in the like amount to the satisfaction of the learned trial Court.

12. 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: 03.12.2025.

JUDGE

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