

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 2950 of 2025

Applicant : Zeeshan Feroze through Mr. Irshad Bhatti,
Advocate.

Complainant : Ameer Ali through Mr. Basam Ali Dahri,
Advocate.

Respondent : The State, through Mr. Qameruddin Nohri,
D.P.G.

Date of Hearing : 15.4.2026.

Date of Order : 15.4.2026.

ORDER.

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, the applicant Zeeshan Feroz seeks pre-arrest bail arising out of FIR No. 729/2025 registered at P.S. Darakhshan, Karachi, for the offences under Sections 406/408 PPC. His earlier bail before arrest application No.3527 of 2025 was declined by the learned Additional Sessions Judge-II, South, Karachi, vide order dated 25.10.2025. Hence, this application for the same concession.

2. The brief facts of the prosecution case are that the complainant, owner of M/s Ali Chemist & Pharmacy, alleged that he appointed the applicant/accused, Zeeshan Feroz, as incharge of his DHA Rahat branch situated at Shop No. 38-A, Street No. 10, Phase VI, Khayaban-e-Rahat, DHA, Karachi, on a monthly salary, which was later increased, and entrusted him with the management, cash and stock of the business. It is alleged that the applicant, in breach of the trust reposed in him, misappropriated funds, unlawfully transferred the pharmacy licence in his own name without authorization, and diverted business proceeds into his personal accounts. It is further alleged that the complainant conducted an audit through a chartered accountant, namely Mr. Dawood Saifullah, for the period from 01.07.2024 to 31.08.2025, which revealed that the branch generated profit of Rs.84,00,000/-, out of which the applicant paid only Rs.56,00,000/-, while the remaining amount was allegedly diverted. It is also alleged that the applicant issued several cheques of Ali Chemist to different distributors which were dishonoured, received cash from distributors but failed to deposit the same into the account of Ali Chemist, and sold medicines without recording them in official accounts; upon confrontation, the applicant allegedly failed to return the amount and extended threats, whereafter the instant FIR was lodged.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated with mala fide intention; that the dispute between the parties is purely of civil nature arising out of business dealings and accounting issues; that no ingredient of criminal offence is made out; that the applicant was managing the business with knowledge and consent of the complainant; that the audit report is based on incomplete record and unilateral version of the complainant; that no direct evidence of misappropriation or personal gain has been placed on record; that the allegation regarding transfer of license is misconceived and requires proper inquiry; that the case is based on documentary evidence already in possession of the complainant, therefore, there is no possibility of tampering; that the applicant has no previous criminal record and is a permanent resident of the locality; that no mala fide has been shown on part of the applicant, rather the FIR has been lodged to pressurize him; therefore, the applicant is entitled to confirmation of pre-arrest bail.

4. Conversely, learned D.P.G. assisted through the learned counsel for the complainant opposes the bail application and contends that the applicant has committed serious offences involving criminal breach of trust and misappropriation of a substantial amount; that the applicant was entrusted with the management of the business and abused such trust; that the audit report prima facie establishes diversion of funds and financial discrepancies; that the applicant unlawfully transferred the pharmacy license in his own name; that several cheques issued by the applicant were dishonoured; that the applicant used personal accounts for business transactions; that sufficient material is available on record connecting the applicant with the commission of offence; that custodial interrogation of the applicant is required; that no mala fide has been shown on the part of the complainant; therefore, the applicant is not entitled to the extraordinary relief of pre-arrest bail.

5. Heard. Record perused.

6. It appears from the record that the applicant/accused was entrusted with the management, cash handling and stock supervision of the complainant's pharmacy business, thereby establishing a fiduciary relationship. The allegations against him are specific in nature and relate to misappropriation and diversion of business funds. The record further reflects that an audit conducted through M/s Dawood Saif & Co., Chartered Accountants, for the period from 01.07.2024 to 31.08.2025 highlights financial discrepancies, including shortfall in remittance of profits. The audit material indicates that the business generated an amount of Rs.84,00,000/-, whereas a sum of Rs.56,00,000/- was reportedly paid to the complainant, reflecting a substantial shortfall. It is also alleged that the applicant issued cheques which were dishonoured, failed to deposit cash receipts into official accounts and conducted transactions without proper recording. These circumstances, when considered cumulatively at this stage, prima facie indicate irregular handling of entrusted

business affairs and are sufficient for forming a tentative assessment in the context of the allegations contained in the FIR.

7. The applicant has relied upon certain documents, including copies of drug licence, complaints and correspondence, to assert his lawful connection with the pharmacy business. However, the record prima facie reflects that the licence stated to have been obtained by the applicant on 06.02.2025 was subsequently cancelled by the competent authority, and thereafter a fresh licence was issued in favour of the complainant on 01.10.2025. At this stage, these documents do not displace the allegations contained in the FIR and cannot be given conclusive effect.

8. It is a well settled exposition of law that the grant of pre-arrest bail is an extraordinary relief which may be granted in exceptional circumstances to protect innocent persons against mala fide actions or abuse of process of law. In the case of ***Rana Abdul Khaliq vs The State and others (2019 SCMR 1129)***, the Honourable Supreme Court held that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, namely arrest in cognizable cases; it is a protection to the innocent being hounded on trumped up charges through abuse of process of law; therefore, a petitioner seeking judicial protection is required to reasonably demonstrate that the intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation. Ever since the advent of ***Hayatullah Khan's case (PLD 1949 Lahore 211)***, the principles of judicial protection are being faithfully adhered to till date; therefore, grant of pre-arrest bail essentially requires considerations of mala fide, ulterior motive or abuse of process of law, situations wherein the Court must not hesitate to rescue innocent citizens.

9. While in the case of ***Rana Muhammad Asbad vs Muhammad Rafique and another (PLD 2009 SC 427)***, the Honourable Supreme Court has discussed the framework and guidelines for granting bail before arrest under Section 498 Cr.P.C. It was held that the exercise of this power should be confined to cases in which not only a good prima facie ground is made out for the grant of bail in respect of the offence alleged, but also it should be shown that if the petitioner were to be arrested and refused bail, such an order would, in all probability, be made not from motives of furthering the ends of justice in relation to the case, but from some ulterior motive, and with the object of injuring the petitioner, or that the petitioner would in such an eventuality suffer irreparable harm. The Honourable Supreme Court laid down the following parameters for pre-arrest bail:-

“(a) grant of bail before arrest is an extraordinary relief to be granted only in extraordinary situations to protect innocent persons against victimization through abuse of law for ulterior motives;

(b) pre-arrest bail is not to be used as a substitute or as an alternative to post-arrest bail;

(c) bail before arrest cannot be granted unless the person seeking it satisfies the conditions specified through subsections (1) & (2) of Section 497 Cr.P.C., besides the exceptional features touching the jurisdiction of the Court under Section 498 Cr.P.C., including that the petitioner must show that there were, in fact, sufficient grounds warranting further inquiry into his guilt;

(d) not just this but in addition thereto, he must also show that his arrest was being sought for ulterior motives, particularly on the part of the police, to cause irreparable humiliation to him and to disgrace and dishonour him;

(e) such a petitioner should further establish that he had not directly or indirectly contributed himself to a situation wherein he was seeking relief in equity e.g. he had no past criminal record or that he had not been a fugitive at law; and finally

(f) in the absence of a reasonable and justifiable cause, a person desiring his admission to bail before arrest must in the first instance approach the Court of Sessions before petitioning the High Court for the same.”

10. In the present case, no material has been placed on record to suggest that the complainant acted with mala fide or ulterior motive. Rather, the record reflects that the FIR was lodged after completion of audit and confrontation, which, at this stage, does not prima facie indicate any such motive. In these circumstances, the extraordinary relief of pre-arrest bail cannot be extended as a matter of course. Moreover, the nature and gravity of the allegations, involving substantial financial loss and breach of trust, further disentitle the applicant from the grant of such discretionary relief. In view of the settled principles laid down by the Honourable Supreme Court, the applicant has failed to bring his case within the parameters warranting the exercise of such jurisdiction.

11. In view of the above facts and circumstances, the instant bail application is dismissed, and the interim pre-arrest bail granted to the applicant vide order dated 28.10.2025 is hereby recalled.

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

JUDGE