

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 317 of 2026.

Applicants : Usama Khan and Faraz Ahmed through Mr. Altaf Hussain, Advocate.

Complainant : Muhammad Naveed Qureshi through Mr. Ismail Shah, Advocate.

Respondent : The State through Mr. Muhammad Noonari, D.P.G.

Date of hearing : 17.3.2026.

Date of order : 17.3.2026.

O R D E R.

TASNEEM SULTANA J: — Through the instant criminal bail application, the applicants, namely Usama Khan and Faraz Ahmed Khan, seek pre-arrest bail arising out of FIR No. 498/2025 registered at Police Station Liaquatabad, Karachi, for offences under Sections 420, 406, 506, 34 PPC. After rejection of their earlier Criminal Bail Application No. 2943 of 2025 by the learned Additional Sessions Judge-V, Karachi Central, vide order dated 23.01.2026, hence this application for the same concession.

2. The brief facts of the prosecution case are that on 08.08.2025 at about 1900 hours, three persons, namely Khurram, Faraz Ahmed and Usama, came to the complainant's showroom and stated that they required vehicles for company use, whereupon the complainant handed over vehicle No. ASL-708 (Maker: Coure, Model: 2009) on rent at the rate of Rs.3,000/- per day along with an advance of Rs.50,000/- Thereafter, on 10.08.2025 at about 1900 hours, another vehicle bearing No. CW-1251 (Maker: FAW, Model: 2016) was taken without any advance. Subsequently, on 11.08.2025 at about 1900 hours, yet another vehicle bearing No. CM-3018 (Maker: Highroof, Model: 2003, white colour) was taken without any advance. It is alleged that when the complainant contacted the accused persons for payment and return of the vehicles, they gave unsatisfactory replies and adopted delaying tactics. Upon inquiry, the complainant learnt that the said vehicles had allegedly been sold to one Alam. When confronted, the accused allegedly issued life threats and used abusive language, whereafter the present FIR was lodged.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated with mala fide intention and ulterior motive; that the FIR does not attribute any specific role to the present applicants with regard to sale of vehicles, or dishonest misappropriation, therefore, the essential ingredients of Sections 406 and 420 PPC are prima facie not attracted; that the vehicles were taken on rent under a written memo executed by the principal accused Khurram, and the role of applicant Faraz Ahmed is confined to affixing his thumb impression as a witness on the said memo, which, by itself does not constitute any criminal liability; that the interim pre-arrest bail was not cancelled on merits but on the ground of alleged non-joining of investigation, without any material having been placed on record to demonstrate that any notice, warrant, or coercive process had been issued so as to establish willful non-cooperation; that any alleged non-joining was the result of a misunderstanding during the hearing regarding the question of thumb impression, whereas the applicants had already joined the investigation; that the FIR has been lodged with an unexplained delay of about four months, which creates serious doubt regarding the veracity of the prosecution case; that the alleged offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C.; and that the applicants have no previous criminal record. On these submissions, learned counsel urged that the case of the applicants calls for further inquiry and prayed for grant of bail.

4. Conversely, learned Additional Prosecutor General, assisted by learned counsel for the complainant, opposed the confirmation of bail, supported the impugned order, and contended that the applicants have been specifically nominated in the FIR in relation to a business transaction involving receipt of vehicles on rent, and sufficient material has been brought on record to connect them with the commission of the alleged offence; hence, they are not entitled to the concession of bail.

5. Heard. Record perused.

6. It is a settled principle that the Court, at the bail stage, is not required to undertake a deeper appreciation or detailed evaluation of the evidence, but only to make a tentative assessment as to whether reasonable grounds exist for believing that the applicants are connected with the alleged offence or whether the case falls within the ambit of further inquiry.

7. It appears that the vehicles were received on rent by Khurram under a written memo of rent executed by him, who prima facie appears to be the principal accused. No specific act of receiving money, selling the vehicles, or dishonest misappropriation

has been attributed to the present applicants individually. The only allegation against applicant Faraz Ahmed is that he acted as a witness to the said memo and affixed his thumb impression thereon, which, at this stage, does not prima facie establish any criminal liability or active participation in the alleged offence. The role attributed to the applicants appears to be based solely on Section 34 PPC without any specific overt act having been assigned to them, which aspect requires determination at trial after recording of evidence; thus, the case of the present applicants calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Reliance is placed on the case of *Salman Mushtaq & others v. The State* (2024 SCMR 14), wherein the Hon'ble Supreme Court has held as under: —

“6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubts as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused...”

8. Perusal of the impugned order reflects that the learned trial Court proceeded on the assumption of non-cooperation without adverting to the material available on record, including the report submitted under Section 173 Cr.P.C., which indicates that the applicants had joined the investigation. The impugned order further shows that the interim pre-arrest bail was recalled on the ground of alleged misuse of the concession of bail on account of such non-cooperation. However, the material available on record, particularly the contents of the report under Section 173 Cr.P.C., reveals that the Investigating Officer has himself reflected both applicants as being on bail and has further recorded that they had joined the investigation. In such circumstances, the allegation of non-cooperation is not borne out from the record and rather stands belied by the material available, and no willful or persistent avoidance of the investigation can be attributed to the applicants so as to constitute misuse of the concession of interim pre-arrest bail.

9. Sections 420 and 506 P.P.C. are bailable, whereas Section 406 P.P.C., being punishable with imprisonment extending up to seven years, does not fall within the prohibitory clause of Section 497(1) Cr.P.C. The Hon'ble Supreme Court in the case of *Iftikhar Ahmed v. The State* (PLD 2021 SC 799) has categorically held that grant of bail in offences falling outside the prohibitory clause is a rule and refusal an exception, which principle is binding upon all Courts under Article 189 of the Constitution. Reliance in this regard is also placed on the cases of *Tariq Bashir and*

Others v. The State (PLD 1995 Supreme Court 34) and *Muhammad Tanvir v. State* (PLD 2017 Supreme Court 733).

10. In view of the above facts and circumstances, the applicants have succeeded in making out a case for the grant of pre-arrest bail. Consequently, the instant bail application is allowed and the interim pre-arrest bail granted to the applicants Usama Khan and Faraz Ahmed Khan vide order dated 29.01.2026 is confirmed on the same terms and conditions. These are the reasons for my short order dated 17.03.2026.

11. It is clarified that any observations made herein are tentative in nature and solely for the purpose of disposal of this bail application, and the same shall not prejudice the rights of either party at trial.

JUDGE