

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA**

Criminal Bail Application No. S-696 of 2025
[*Jurial @ Allah Jurio v. The State*]

Counsel for Applicant: Mr. Dad Muhammad Magsi, Advocate

The State: Through Mr. Oshaq Ali Sangi, Assistant Attorney General for Pakistan.

Date of Hearing: 17.06.2026

Date of Order: 17.06.2026

ORDER

RIAZAT ALI SAHAR, J.: - Through this order, I intend to dispose of the instant application for pre-arrest bail filed by the applicant Jurial @ Allah Jurio son of Ahmed Ali in connection with Crime No. 48 of 2024, registered at Police Station Warrak under Section 379, P.P.C.

2. The record reflects that after registration of the subject F.I.R. and apprehending his arrest at the hands of the police, the applicant initially surrendered before the Court of learned Sessions Judge, Kashmore at Kandhkot and sought the concession of pre-arrest bail. The said application was transferred to the Court of learned Additional Sessions Judge-II, Kamber, wherein interim protective bail was granted to the applicant. However, after hearing the learned counsel for the parties and examining the material available on record, the learned Additional Sessions Judge-II, Kamber, vide order dated 23.12.2025, recalled the interim relief and dismissed the pre-arrest bail application. Hence, the instant application.

3. The prosecution case, as set out in the F.I.R., is that the complainant Abdul Sami, posted as Line Superintendent (LS) on Najam Feeder, WAPDA Warrak, on 27.05.2024, along with his subordinate staff, visited the electricity lines for routine inspection and, upon reaching Kader Shaakh near Village Hajan Khan Tunio, found that conductor wires from five electricity poles had been removed and stolen. It is alleged that two villagers, namely Abdul Raheem and Muhammad Hassan, informed the complainant that they had witnessed the present applicant along with co-accused persons transporting the stolen conductor wires on two loader-rickshaws towards Junani side. Upon receipt of instructions from higher authorities, the complainant

lodged the present F.I.R. bearing Crime No. 48 of 2024 at Police Station Warrah under Section 379, P.P.C.

4. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case owing to mala fide and ulterior motives. He argued that neither the complainant nor the accompanying WAPDA officials are eyewitnesses to the alleged occurrence and that the prosecution story rests solely upon the hearsay statements of two private persons, namely Abdul Raheem and Muhammad Hassan, who are stated to be inimically disposed towards the applicant. He further submitted that there is unexplained delay in lodging the F.I.R., which renders the prosecution version doubtful. It was also argued that no incriminating article has been recovered from the possession of the applicant and that the allegation against him requires further inquiry within the meaning of Section 497(2), Cr.P.C. Learned counsel maintained that the offence alleged does not fall within the prohibitory clause of Section 497, Cr.P.C., and that the applicant has joined the proceedings, is ready to cooperate with the investigation and trial, and undertakes to furnish solvent surety to the satisfaction of this Court. He, therefore, prayed for confirmation of the interim pre-arrest bail already granted to the applicant.

5. Conversely, learned Assistant Attorney General, assisted by the learned State Counsel, vehemently opposed the grant of pre-arrest bail and contended that the applicant has been specifically nominated in the F.I.R. and is involved in the commission of a serious offence pertaining to the theft of public property. He submitted that the statements of the witnesses recorded during the course of investigation lend support to the prosecution case and prima facie connect the applicant with the alleged offence. It was further argued that no mala fide or ulterior motive on the part of the complainant or the police has been shown so as to justify the extraordinary concession of pre-arrest bail. According to the learned law officer, the applicant has failed to make out a case warranting the exercise of extraordinary discretionary jurisdiction under Section 498, Cr.P.C.; therefore, the instant application is liable to be dismissed.

6. I have heard the learned counsel for the parties and have perused the available record with their assistance. The present case is not one where the applicant has been roped in through a vague or omnibus allegation. The F.I.R. specifically states that conductor wires from five electricity poles at Kader Shaakh near Village Hajan Khan Tunio were found removed and stolen. The complainant, being Line Superintendent of WAPDA on Najam Feeder, Warrah, came to know of the occurrence during official inspection of the electricity line. The matter, therefore, relates to theft of public utility property and not to a private dispute simpliciter.

7. The record further reflects that two persons of the locality, namely Abdul Raheem and Muhammad Hassan, disclosed before the complainant that they had seen the present applicant, along with co-accused persons, carrying/transporting the stolen conductor wires on two loader-rickshaws towards Junani side. Thus, the applicant's nomination is not based merely on suspicion, guesswork or subsequent deliberation, but on the information of specifically named witnesses who claimed to have seen the applicant transporting the stolen property soon after the occurrence.

8. The learned counsel for the applicant has laid stress on the fact that the complainant himself is not an eyewitness. This contention, at the present stage, is not sufficient to dislodge the prosecution case. In offences of theft, particularly theft of electricity wires from an open place, direct ocular account by the complainant is not always possible. What is material at bail stage is whether there exists some connecting material against the accused. In the present case, such connecting material is available in the shape of the statements of Abdul Raheem and Muhammad Hassan, who are named in the F.I.R. itself and whose version prima facie connects the applicant with the removed conductor wires.

9. The argument that the case is based on hearsay also requires careful consideration. The complainant may not have personally seen the applicant removing the wires, but the prosecution case does not rest merely upon anonymous information. Rather, the complainant has named the very persons who allegedly saw the applicant and co-accused transporting the stolen conductor wires. Whether those witnesses are truthful, whether they actually saw the applicant, and whether their testimony shall ultimately inspire confidence are matters which can only be determined after recording evidence. At the stage of pre-arrest bail, their statements cannot be discarded outright.

10. It was further argued that Abdul Raheem and Muhammad Hassan are inimically disposed towards the applicant. However, no specific details of such enmity have been furnished. The applicant has not shown the nature of previous dispute, date, background, litigation or any circumstance from which this Court may tentatively conclude that the witnesses had a reason to falsely implicate him in a case of theft of WAPDA conductor wires. A bald plea of enmity, without supporting particulars, cannot be treated as proof of mala fide.

11. The plea of delay in lodging the F.I.R. also does not, in the facts of the present case, create such doubt as would justify confirmation of pre-arrest bail. The complainant is an official of WAPDA and the F.I.R. itself reflects that after inspection of the line and after receiving information from the local persons, the matter was reported pursuant to instructions from higher authorities. In such official matters,

some time is normally consumed in verification, reporting and obtaining permission from the department. Therefore, the delay, if any, is not by itself fatal at this tentative stage.

12. The learned counsel has also contended that no recovery has been effected from the applicant. This circumstance alone cannot be made the basis for confirming pre-arrest bail. The allegation against the applicant is that he was seen transporting the stolen conductor wires on loader-rickshaws towards Junani side. Recovery may or may not be effected during investigation, but absence of recovery at this stage does not wipe out the specific allegation supported by named witnesses. The evidentiary value of recovery, or its absence, shall be assessed by the trial Court.

13. It is also significant that the stolen property consists of conductor wires removed from five electricity poles. Such an act, besides amounting to theft, directly affects public infrastructure and electricity supply. The nature of the property allegedly stolen gives the matter a public element. The applicant, therefore, cannot claim extraordinary protection merely on the ground that the offence under Section 379, P.P.C. does not fall within the prohibitory clause of Section 497, Cr.P.C. The present application is one for pre-arrest bail under Section 498, Cr.P.C., where the applicant must independently establish mala fide, ulterior motive or abuse of process.

14. The distinction between post-arrest and pre-arrest bail is material. In post-arrest bail, the Court may consider further inquiry, delay, recovery, sentence and other factors under Section 497, Cr.P.C. However, for pre-arrest bail, the accused must show that his arrest is being sought for an improper purpose, such as humiliation, harassment or political/personal victimisation. In the present case, no such material has been brought on record. The complainant is a public servant performing official duty, the property belongs to WAPDA, and the applicant has not shown any prior dispute with the complainant or police.

15. The applicant had earlier approached the learned Additional Sessions Judge-II, Kamber, where interim pre-arrest bail was granted to him. However, after hearing the parties and examining the record, the learned Court recalled the interim relief and dismissed the application vide order dated 23.12.2025. The applicant has not been able to point out any illegality, misreading or non-reading in the said order which may persuade this Court to take a different tentative view.

16. From the tentative assessment of the record, it appears that the applicant is specifically nominated; two named local witnesses have attributed to him the act of transporting stolen conductor wires; the stolen property belongs to a public utility department; and no convincing material of mala fide, enmity or ulterior motive

has been produced. In these circumstances, the applicant has failed to make out a case for extraordinary relief of pre-arrest bail.

17. Consequently, the instant bail application is dismissed and the interim pre-arrest bail earlier granted to the applicant stands recalled.

18. The observations made herein are tentative in nature and shall not influence the learned trial Court while deciding the case strictly on the basis of evidence brought before it.

These are the reasons for my short order dated 17.06.2026.

JUDGE

M.Yousuf Panhwar