

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Bail Application No.1526 of 2026

Criminal Bail Application No.1527 of 2026

Applicants : Muhammad Asif and Abdul Qadir through Muhammad Arain, Advocates.

Respondent : The State through Ms. Rubina Qadir, D.P.G.

Complainant : Sajid Farooq through Ms. Kiran Qaiser Khan, Advocate.

Date of Hearing : 13.10.2026.

Date of Order : 13.10.2026.

ORDER

TASNEEM SULTANA, J.— Through this common order, I intend to dispose of Criminal Bail Applications Nos.1526 and 1527 of 2026, filed by applicants Muhammad Asif son of Abdul Razzaq and Abdul Qadir son of Muhammad Asif, respectively, under Section 498, Cr.P.C., seeking confirmation of pre-arrest bail in Crime No.18 of 2026, registered at Police Station Liaquatabad, Karachi Central, initially under Section 381, P.P.C., and subsequently challaned under Sections 408, 380 and 34, P.P.C. Their earlier applications for the same relief were dismissed by the learned Illrd Additional Sessions Judge, Karachi Central, vide order dated 12.05.2026.

2. The detailed facts of the case are already set out in the bail applications and the F.I.R. and, therefore, need not be reproduced in detail.

3. Learned counsel for the applicants contends that both applicants are innocent and have been falsely implicated in the case due to mala fide intentions of the complainant. It is argued that the prosecution case rests upon mere suspicion arising from an alleged shortage of approximately 250 fans, without any direct evidence connecting the applicants with theft or misappropriation. The alleged shortage relates to a period extending over several months, and no proper reconciliation of stock has been produced to establish the actual quantity of missing goods. Regarding Muhammad Asif, learned counsel submits that the recovery of four fans from his residence was falsely foisted upon him, as those fans were already installed in his house and belonged to him. As regards Abdul Qadir, learned counsel argues that he was neither nominated in the FIR nor assigned any specific role and that no recovery has been effected from him. It is further contended that both applicants have no previous criminal record and that the alleged offences do not fall within the prohibitory clause of Section 497(1),

Cr.P.C. Learned counsel, therefore, prays for confirmation of their interim pre-arrest bail.

4. Conversely, learned counsel for the complainant, assisted by the learned Additional Prosecutor General, opposes the applications and submits that Muhammad Asif was entrusted with the keys of the shop and warehouse and was responsible for managing the stock. The shortage of approximately 250 fans was discovered during stocktaking, and the allegations are supported by purchase receipts, delivery notes, statements recorded during investigation and recovery of four fans. It is further submitted that Abdul Qadir was implicated on the basis of material collected during investigation. Learned counsel maintains that the applicants have failed to establish any mala fide intention or ulterior motive on the part of the complainant or police and are, therefore, not entitled to the extraordinary relief of pre-arrest bail.

5. Heard. Record perused.

6. On a tentative assessment of the material available on record, it appears that the prosecution case primarily rests upon the alleged shortage of approximately 250 fans discovered during annual stocktaking at the complainant's shop. Applicant Muhammad Asif was admittedly employed at the shop and entrusted with its keys and the responsibility of managing the warehouse. However, the mere fact of such employment and entrustment does not, by itself, establish dishonest misappropriation of the missing stock. Although the prosecution has produced purchase receipts, delivery notes and certain stock calculations, no stock register, record showing movement of goods, inventory of fans kept in the shop or warehouse, or document establishing entrustment of the alleged missing stock to the applicant has been brought on record. In the absence of such material, whether the alleged shortage actually occurred and whether the applicant was responsible for its dishonest removal are matters which call for further inquiry as envisaged under Section 497(2), Cr.P.C.

7. As regards the recovery of four fans from the residence of Muhammad Asif, the same is disputed by the defence on the ground that these fans were already installed in different rooms of his house and constituted his personal property. The recovered articles represent only a small portion of the allegedly missing stock. Whether they formed part of the complainant's property and whether their recovery connects the applicant with the alleged offence are matters requiring further examination. At this stage, the evidentiary value of the disputed recovery cannot be conclusively determined.

8. The case of applicant Abdul Qadir stands on a different footing. He was not nominated in the FIR, which contains allegations specifically against his father, Muhammad Asif. No responsibility for managing the shop or warehouse

has been attributed to him, nor has any specific act of theft or dishonest misappropriation been assigned to him in the original prosecution version. His name surfaced during investigation, but no recovery has been shown from his possession. Although he was shown as an absconding accused in the challan, the record reflects that he approached the learned Sessions Court for pre-arrest bail on 11.02.2026 and was granted interim protection, which was subsequently recalled on 12.05.2026. The circumstances surrounding his alleged abscondence, therefore, require consideration in the light of these proceedings. In these circumstances, his alleged involvement calls for further inquiry.

9. It is settled that in offences not falling within the prohibitory clause of Section 497(1), Cr.P.C., grant of bail is a rule and refusal is an exception. Reliance may be placed on *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) and *Muhammad Imran v. The State* (PLD 2021 SC 903). It is equally settled that pre-arrest bail is an extraordinary relief intended to protect an accused against arrest motivated by mala fides or ulterior considerations, which may be gathered from the surrounding circumstances. In the present case, the circumstances discussed above, when considered collectively, provide reasonable grounds for further inquiry into the applicants' involvement and support their plea of mala fide implication. No previous criminal record has been brought on record against either applicant, nor has any material been pointed out showing that they are likely to tamper with the prosecution evidence or influence the witnesses.

10. In view of the above facts and circumstances, the applicants have succeeded in making out a case for confirmation of their interim pre-arrest bail. Accordingly, both Criminal Bail Applications are allowed, and the interim pre-arrest bail granted to the applicants vide orders dated 18.05.2026 is hereby confirmed on the same terms and conditions.

11. Needless to observe that the observations made hereinabove are tentative in nature and confined to the disposal of these bail applications and shall not prejudice the case of either party at the trial.

JUDGE