

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2018 of 2026

Applicant : Zeeshan Ishaq
son of Muhammad Ishaq
Through Mr. Saeed Ahmed advocate

Complainant : Syed Khurram Ali
Son of Mahfooz
Through Mr. Sohrab Ahmed Meo
advocate

The State : Mr. Sharafuddin Kanhar, Assistant
Prosecutor General, Sindh

Date of hearing : 09.09.2026.

Date of Order : 09.09.2026.

ORDER

Jan Ali Junejo, J:- Through this bail application, applicant Zeeshan Ishaq son of Muhammad Ishaq seeks post arrest bail in Crime No.337/2026 under Section 406 PPC registered at police station Preedy, Karachi. The applicant has approached this Court being aggrieved by the order dated 29.06.2026 passed by the learned Additional Sessions Judge-II, Karachi South whereby his bail application was declined.

2. The prosecution case, in brief, is that the complainant lodged the FIR stating that on 30-04-2020 he handed over 10 tolas of pure gold to Zeeshan Ishaq, with whom the complainant had a business relationship for the purpose of melting/refining gold. Zeeshan informed the complainant that he would return the gold within 20 to 25 minutes. When the complainant contacted him, he allegedly informed him that the person to whom he intended to deliver the gold had snatched it from him. He further stated that he was attending the funeral of his uncle and that the matter would be discussed later. Thereafter, despite repeated requests by the complainant for the return of the gold, Zeeshan Ishaq refused to return the same; hence, the instant FIR.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated due to a longstanding business dispute between the parties, who are engaged in gold and jewellery business and have had previous commercial and personal relations; that the alleged 10 tolas of gold was not entrusted to the applicant as alleged,

rather, it was handed over towards adjustment of pre-existing liabilities arising from their mutual business transactions, which are supported by communications exchanged between the parties; that the prosecution has produced no independent evidence, receipt, WhatsApp communication or other material showing entrustment of the alleged gold to the applicant, nor was any recovery effected from him; that the essential ingredients of Section 406, PPC, namely entrustment, dishonest misappropriation and mens rea, are not prima facie established, particularly when the applicant was not the beneficiary of the alleged transaction; that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., and the matter requires further inquiry under Section 497(2), Cr.P.C.; that there is an unexplained delay of about 20 days in lodging the FIR, which casts further doubt upon the prosecution case; and that the FIR has been lodged mechanically and with mala fide intention to harass, pressurize and defame the applicant in order to avoid the complainant's own outstanding liabilities nor produced any receipt, WhatsApp communication or other proof of such alleged entrustment before the SHO; hence, the applicant is entitled to the concession of bail.

4. Conversely, the learned Assistant Prosecutor General Sindh assisted by learned counsel for complainant opposed instant Cr. Bail Application vehemently and rigorously on variety of the grounds. They further added that applicant is prima facie connected with the crime on the strength of the material collected by the Investigating Officer, as such he is not entitled to extra ordinary relief, which was available only for innocent people.

5. I have heard learned counsel for the applicant, learned Assistant Prosecutor General Sindh assisted by learned counsel for the complainant, and have carefully examined the material available on record.

6. The allegation against the applicant is that the complainant had handed over 10 tolas of pure gold to him for melting/refining, which he failed to return. However, at this stage, no independent material, receipt, documentary evidence or other corroborative material has been pointed out connecting the applicant with the alleged entrustment of the gold. The defence, on the other hand, raises a specific plea that the parties had longstanding business dealings and that the alleged gold was handed over in connection with settlement of their previous business transactions. The

question whether the transaction constituted an entrustment within the meaning of Section 406, PPC, and whether there was any dishonest misappropriation on the part of the applicant are matters requiring deeper appreciation of evidence at trial.

7. It is also relevant that there is an unexplained delay of about 20 days in registration of the FIR, which, at this tentative stage, creates an element of doubt requiring further probe. Furthermore, no recovery of the alleged gold has been effected from the applicant. The material available on record, therefore, does not presently furnish sufficient grounds to conclude that the essential ingredients of the alleged offence are prima facie established against him. The defence plea that the dispute arises out of previous business dealings cannot be brushed aside at this stage and requires determination after recording of evidence.

8. Admittedly, the offence under Sections 406 P.P.C. do not fall within the prohibitory clause of Section 497, Cr.P.C. It is by now a settled proposition of law that in offences falling outside the prohibitory clause, grant of bail is a rule and refusal is an exception unless exceptional circumstances are shown to exist. No material has been placed before this Court to indicate that the applicant is previous convict, hardened criminal, or that his release on bail would prejudice the prosecution case in any manner.

9. Because of the above factual and legal position, the applicant is found entitled to the relief of bail under to Section 497(2) Cr.PC, including the reasons recorded hereinabove.

10. For the reasons discussed above, the applicant has succeeded in making out a case for the concession of post-arrest bail. Accordingly, this Cr. Bail Appln. is allowed, and the applicant Zeeshan Ishaq son of Muhammad Ishaq is admitted to post-arrest bail subject to his furnishing surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. The observations made herein are tentative in nature and confined solely to the purpose of this Order. They shall not prejudice or influence the learned trial Court while deciding the case on merits.

JUDGE