

ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 648/2025

Applicant : Muhammad Miskeen son of Lakhi Zaman,
Through Mr. Irfan Tariq, advocate

Respondent : The State
Through Mr. Fayyaz Hussain, APG Sindh

Date of hearing : 17-04-2025

Date of order : 17-04-2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Muhammad Miskeen seeks pre-arrest bail in a case bearing Crime No. 343/2024, for offence under section 506/406 PPC of Police station Pak Colony. Earlier bail plea of applicant was declined vide order dated:11-03-2025 by the learned Additional Sessions Judge-XI Karachi West.

2. The factual matrix as per prosecution theory are that complainant Javed, claims to have been engaged in the car dealing business for over two decades, alleges that on 29.06.2023, while he was seated with his acquaintances Muhammad Khan, Haji Khursheed, and Ghulamullah at Bismillah Hotel, Pak Colony, he received a phone call from the present applicant, expressing a desire to rent two cars. The applicant allegedly arrived at the hotel, selected two vehicles, a Toyota Corolla bearing registration number VJE-437 and a Honda City bearing registration number BLQ-832, and paid Rs.660,000/- in advance. It is claimed that after taking possession of the cars, the applicant ceased communication and, upon the complainant's attempt to contact him, allegedly issued threats of dire consequences. Based on this narrative, the instant FIR was lodged.

3. Learned counsel for the applicant has argued that the FIR is false and motivated by malice. He submitted that the applicant is a respectable businessman engaged in the lawful profession of car rental and has no prior relationship, either personal or familial, with the complainant. It is asserted that the alleged transaction was of a purely civil nature, and the criminal machinery has been misused by the complainant to pressurize the applicant in relation to an underlying business dispute. It is further

contended that the complainant has deliberately suppressed the fact that multiple civil suits are pending between the applicant and certain parties, namely Khursheed and Ali Ahmed Babar. In these civil proceedings, the learned Senior Civil Judge, Islamabad (West), has already passed a status quo order in favour of the applicant, thereby acknowledging the complexity of the dispute. The applicant has placed on record copies of court orders and documents substantiating his claim that the matter is of civil complexion. Thus, it is urged that the FIR has been registered to entangle the applicant in a false criminal case, and the element of mala fide is apparent. Learned counsel further submitted that the alleged offences do not fall within the prohibitory clause of Section 497(1) Cr.P.C., and the case requires further inquiry. The accused has not misused the concession of interim bail and has joined the investigation. Reliance has been placed on *Rana Muhammad Arshad v. Muhammad Rafique* (PLD 2009 SC 427), wherein it was held that protection under Section 498 Cr.P.C. can be extended where mala fide is evident and the prosecution's conduct is questionable. He also relied on *2017 SCMR 733* and *PLD 1995 SC 34*, wherein it was observed that bail should be granted in cases not falling within the prohibitory clause unless there are extraordinary reasons to deny such relief.

4. On the other hand, learned D.P.G. opposed the confirmation of bail, arguing that the applicant dishonestly deprived the complainant of two valuable cars under the guise of a rental transaction and subsequently threatened him when the vehicles were demanded back. He maintained that such conduct constitutes criminal breach of trust and intimidation, warranting custodial interrogation. However, the learned D.P.G. conceded that the accused has joined investigation and is not shown to have misused interim relief.

5. At the outset, it may be observed that the dispute appears to have civil overtones arising out of a rental or business transaction. The applicant has placed on record copies of civil suits and court orders showing that legal proceedings are pending before the learned Senior Civil Judge, Islamabad (West), in which a status quo order has been passed in his favour. These facts lend support to the applicant's claim that the registration of FIR is a counterblast to ongoing civil litigation. The applicant has also categorically denied any prior acquaintance or

relationship with the complainant, thereby negating the notion of a trust-based transaction essential for attracting Section 406 PPC.

6. Furthermore, the applicant is not shown to be a flight risk, has joined the investigation, and has not misused the concession of interim bail. There is no allegation of tampering with prosecution witnesses or evidence. The dispute seems to have arisen from a commercial arrangement, and the complainant appears to have converted a business grievance into a criminal allegation. The offence alleged under Section 406 PPC is punishable with a term which does not fall within the prohibitory clause of Section 497(1), Cr.P.C. As held in *Rana Muhammad Arshad* (supra), protection of pre-arrest bail can be extended where mala fide is apparent. The principle laid down in *2017 SCMR 733* and *PLD 1995 SC 34* further reinforces that in non-prohibitory cases, bail is to be granted as a rule unless there are exceptional circumstances justifying denial.

7. In light of the foregoing discussion and the material placed on record, the applicant has successfully established a case meriting the confirmation of pre-arrest bail. Accordingly, the interim pre-arrest bail granted to the applicant was confirmed on same terms and conditions with the directions to join investigation/trial by short order dated 17.04.2025. Learned trial court was also directed to conclude the trial preferably within 90 days on receipt of this order. These are the reasons for short order dated 17.04.2025.

J U D G E