

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Amjad Ali Sahito**

Criminal Bail Application No.2964 of 2024

Applicant : Muneer Ahmed Jalbani  
Through Mr. Zulfiqar Ali Jalbani,  
Advocate

Complainant : Syed Muddasir Mehmood, through M/s  
Raj Ali Wahid Kunwar and Abdul Qadir  
Soomro, Advocates.

Respondent :  
The State  
Through Ms. Rahat Ehsan,  
Addl. Prosecutor General, Sindh a/w  
Director Muhammad Azeem of  
Information Department.

Date of hearing : 17.03.2025

Date of order : 17.03.2025

## **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.674/2024 registered under Section 381, 409, 427, 34 PPC at PS Preedy, Karachi, after his bail plea has been declined by IXth Additional Sessions Judge, South-Karachi vide order dated 18.12.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel, the applicant/accused has falsely been implicated in this case. The applicant/accused is a victim of the system as he has not joined the corruption made by the Director Mr. Yousuf Kaboro. Learned counsel further submits that in fact Section 409 PPC is not applicable in this case as the record/ files were not in his possession as such section 427 is bailable, the Section 381 does not fall within the prohibitory clause of section 497. He submits that after registration of the FIR another FIR was also registered against the applicant/accused at Police Station

Preedy and was arrested in that case. However, he has no connection in that case. Lastly, prayed for grant of the bail.

4. On the other hand, learned counsel for the complainant filed Vakalatnama alongwith certain documents, taken on record. He submits that the accused is very much involved in this case and after committed theft, uploaded official files on his facebook ID and other social media. Learned counsel further submits that the applicant/accused has access to the official record; hence Section 409 PPC is very much applicable in this case. He invited attention of this court to para-2 of the bail order, wherein the learned trial court has observed that this is 4<sup>th</sup> bail application of the applicant and he after filing one and other, he has not joined the investigation. He also taken plea of the FIR being crime No.674/2024 at P.S Preedy registered against him that he has not disclosed before the learned trial court that present pre-arrest bail application become infructuous on the ground that he was already in custody but hiding of these facts, he has filed four bail application before the learned trial court. In support of his contention, he has relied upon the case laws reported as PLD 2009 SC 427, 2023 SCMR 975, PLD 1983 SC 82, 2007 PCrLJ 1116 and 2021 PCrLJ 886. He further submits that in fact the conduct of the applicant is violation of the judgment of the Hon'ble Supreme Court of Pakistan reported as PLD 2014 SC 241, wherein the Hon'ble Supreme Court has held that the Advocate must attach the certificate regarding filing/non-filing of the previous application. Lastly, prayed for dismissal of the bail application.

5. Learned Additional Prosecutor General, Sindh also vehemently opposed for grant of bail.

6. Heard and perused the record.

7. From the perusal of the record, it reflects that the complainant Syed Muddasir Mehmood lodged the FIR and states that he went to another department for official work when he returned at about 1745 and saw one employ namely Muneer Jalbani, the present applicant and Zain, were leaving the office holding in their hands official files and upon asking them where

they are taking these files, they did not reply and left the office of Director Advertising. The complainant saw Daak register, ATC files, attendance register were somewhat torn and some other registers were missing, files were scattered all over in office and subsequently he has lodged the FIR.

8. Learned counsel for the complainant has also invited attention of this court that after the stolen of the files and documents, the same were up loaded by the applicant/accused on his face book ID as well as other social media.

9. So far the plea taken by the learned counsel for the applicant that section 409 PPC is not applicable in this case. Suffice it to say that Section 409 PPC is very much applicable in this case as the applicant being Grade-17 Officer has very much access to all the government files and on the basis of his access, he has stolen files and some documents were torned by him as the same was found scattered condition in the office. The applicant after grant of first bail application No.3804 of 2024 filed by him before the learned trial court and after grant of pre-arrest bail did not join the investigation and file one or other bail application before the learned trial court. The conduct of the applicant shows that such facts were not disclosed by him in the previous bail application filed by him before the learned trial court and in view of the judgment passed by Hon'ble Supreme of Pakistan in Nazir Ahmed and another v. The State and others (cited supra) has held that "**At the bottom of every application for bail it is obligatory to attach a certificate regarding non-filing of any such application before the same court previously and, in case of a repeated or successive application, a certificate disclosing filing of any such application previously by the same accused person, any other accused person, the State or the complainant party before the same court in the same criminal case or its cross-case and such certificate must also disclose the number of the previous application, the date of its decision and the name of the Judge dealing with and deciding the same. No subsequent bail application is to be entertained unless the same is accompanied by copies of the**

**earlier bail application and copies of the orders passed thereon”.**

10. At bail stage only tentative assessment is to be made out. No ill-will, malafide or enmity has been pleaded by the applicant/accused which could be the ground for false implication in this case. However, learned counsel for the applicant submits that due to enmity with Director Information Mr. Yousuf Kaboro, the present applicant has been booked as he has refused to collect the corrupt money on his behalf. During pendency of this bail application, inquiry was conducted and it was proved that the Director has not directed to the applicant to collect corrupt money on his behalf.

11. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others'** [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

12. In view of the above, learned counsel for the applicant / accused has failed to make out a case for grant of bail. Resultantly, the instant Bail Application is **dismissed**. The interim pre-arrest

bail granted to him vide order dated **20.12.2024** is hereby recalled.

13. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merit

Hyder/PA

JUDGE