

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.860 of 2025

Applicant : i. Shahryar son of Ghulam Sabir
ii. Dil Nawaz son of Haq Nawaz,
through Mr. Zain ul Abideen Mirza, Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl. P.G Sindh

Date of short order : 16.05.2025

Date of reasons : 21.05.2025

REASONS

KHALID HUSSAIN SHAHANI, J. – Applicants Shahyar & Dil Nawaz sought post-arrest bail in a case bearing crime No.186/2025, offence under section 380, 511, 34 PPC of P.S Boat Basin, Karachi. Previously the bail of accused was declined on 24.03.2025 by the learned VIth Additional Sessions Judge Karachi South.

2. The allegations against the applicants are that they were apprehended at the Judges' Flats, Block-7, Clifton while allegedly removing ceiling fans and tube lights from the premises and loading them into a car. It is alleged that they failed to offer satisfactory explanation when questioned by the complainant and others on duty. Consequent upon; case was registered inter-alia on above facts.

3. Learned counsel contends that the alleged offence, even if accepted at face value, amounts to attempt to commit theft, which under Section 511 PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C. It is further submitted that no recovery of the purported case property (ceiling fans & tube lights) has been shown in the challan to have been effected from the applicants' possession or at their instance. Thus, a case for further inquiry within the meaning of Section 497(2) Cr.P.C. is made out.

4. Learned APG opposes the bail application, but does not dispute that no recoveries have been shown in the challan nor that the alleged offence is punishable with less than ten years.

5. It is not in dispute that the offence alleged under Sections 380 and 511 PPC carries a punishment of less than ten years, and therefore, does not

attract the prohibitory clause of Section 497(1) Cr.P.C. In such circumstances, the settled principle is that grant of bail is a rule, while its denial is an exception, barring the presence of any extraordinary grounds, which are not evident in the present case. Notably, as reflected in Column No.5 of the charge sheet, the alleged recovered items are shown in the possession of the complainant, and not seized by the police as part of the investigation. This aspect materially undermines the prosecution's case, as it casts doubt on the alleged recovery, a crucial piece of evidence. The accused are already in custody and are no longer required for investigative purposes. Whether or not the applicants are guilty is a matter to be determined at trial. The evidence gathered thus far appears inconclusive and lacks independent corroboration, thereby bringing the case within the ambit of further inquiry under Section 497(2) Cr.P.C.

6. In view of the above, the bail application is allowed through short order dated 16.05.2025 by admitting the applicants to post-arrest bail, subject to their furnishing solvent surety in the sum of Rs. 30,000/- (Rupees thirty thousand only) each and a personal bond in the like amount to the satisfaction of the learned trial Court and these are the detail reasons of the above short order.

J U D G E