

## IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

### Criminal Bail Application No. S-307 of 2025

Applicant : Allah Dino s/o Mithan by caste Oghai  
Through Mr. Ashique Hussain Kalhoru,  
Advocate

Complainant : Through Mr. Ahmed Raza Sundrani,  
Advocate

The State : Through Mr. Qamaruddin Nohri, Addl. P.G.

Date of hearing : 25-07-2025

Date of order : 01-08-2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** –Allah Dino seeks pre-arrest bail in a case bearing crime No.28/2025, registered at Police Station Ghouspur, District Kashmore @ Kandhkot, for offences under Sections 380 and 457 PPC. His initial application for the same relief was dismissed by the learned Sessions Judge, Kashmore @ Kandhkot, on 05.06.2025.

2. Briefly, the allegations as per the FIR lodged by complainant Nabi Bux on 28.05.2025 are that on the night of 09.05.2025, at about 12:00 a.m., the present applicant, along with co-accused, all allegedly armed, committed lurking house-trespass by night, overpowered the complainant and his family at gunpoint, and committed theft of two buffaloes.

3. The learned counsel contends that the applicant is innocent and has been falsely implicated due to mala fide intentions and pre-existing enmity. He argues that there is an inordinate and unexplained delay of twenty (20) days in the registration of the FIR, which casts serious doubt on the prosecution's narrative. He further submits that the version in the FIR is contradicted by a prior application, the complainant filed before the SSP, Kashmore, wherein

eight buffaloes and a robbery of Rs. 2,000,000/- were alleged, whereas the FIR is silent on the cash and mentions only two buffaloes. This, he argues, makes the case one of further inquiry. The learned counsel places emphasis on the fact that the alleged offences do not fall within the prohibitory clause of Section 497(1), Cr.P.C., and thus, the grant of bail should be the rule.

4. Conversely, the learned Additional Prosecutor General has opposed the application, stating that the applicant is nominated in the FIR with a specific role and the offence is serious in nature.

5. The primary consideration in this matter revolves around the application of the prohibitory clause of Section 497(1), Cr.P.C. The offences for which the applicant is charged are under Sections 380 and 457, PPC. While Section 457, PPC can carry a punishment of up to fourteen years if the intended offence is theft, thereby technically falling within the prohibitory clause, the courts have consistently adopted a rule of prudence in such matters. It is a settled principle of law, as eloquently laid down by the Hon'ble Supreme Court of Pakistan in the landmark case of *Muhammad Tanveer v. The State* (2017 SCMR 733), that for offences not falling within the prohibitory clause of Section 497(1), Cr.P.C., the grant of bail is a rule and refusal is an exception. This principle, by extension, is applied with considerable weight in cases which, though technically falling within the prohibitory ambit, are mitigated by other circumstances pointing towards the need for further inquiry.

6. In the instant case, several factors render the prosecution's case doubtful at this preliminary stage. The delay of twenty days in lodging the FIR remains largely unexplained, and such a delay is often viewed as a period of consultation, deliberation, and potential fabrication. Furthermore, the stark contradictions between the complainant's initial application to the police hierarchy and the contents of the eventual FIR are significant. The reduction in the

number of allegedly stolen animals from eight to two and the complete omission of the alleged robbery of a substantial sum of money lend considerable weight to the applicant's contention that the case is engineered and requires further inquiry. The prior enmity, evidenced by the applicant's own protection application filed before the Sessions Court against the complainant party, further points towards a background of malice.

7. Bail is not to be withheld as a punishment. Given the unexplained delay, material contradictions, and evidence of pre-existing enmity, the case against the applicant requires deeper scrutiny, which can only be undertaken at the trial stage. Consequently, for the reasons discussed above, this bail application is allowed. The ad-interim pre-arrest bail granted to the applicant is hereby confirmed on the same terms. The applicant is directed to join the investigation as and when required by the police.

**J U D G E**

Asghar Altaf/P.A