

# **THE HIGH COURT OF SINDH AT KARACHI**

## **Criminal Bail Application No.2541 of 2025**

Applicant : Nazeer Ahmed son of Qamar Zaman through Mr. Rasheed Ashraf Mughal, Advocates

Complainant : Mst. Bakht Raj Bibi widow of Qamar Zaman through Mr. Abdul Wahab, Advocate

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 07.11.2025

Date of decision : 07.11.2025

## **ORDER**

**Jan Ali Junejo, J.-** Through this Order, I intend to dispose of the present Criminal Bail Application filed under Section 497, Cr.P.C., arising out of FIR No. 268/2025 registered at P.S. Maripur for offences under Sections 448, 511, 468, 471, and 34, PPC. The applicant had earlier sought bail before the courts below, but his applications were dismissed vide orders dated 12-09-2025 and 20-09-2025 passed by the learned Ist Judicial Magistrate, Karachi-West, in Criminal Bail Application No. 119 of 2025, and by the learned XIth Additional Sessions Judge, Karachi-West, in Bail Application No. 4707 of 2025. He has now approached this Court for the relief sought.

2. The brief facts, as set out in FIR No. 268/2025 registered at P.S. Maripur on 04-09-2025 under Sections 448, 511, 468, 471, and 34, PPC, are that the complainant, Mst. Bakht Raj Bibi, alleged that the applicant, her stepson, along with his sons, attempted to take possession of a property (Plot No. 882, adjacent to the Town Office, Father Colony, Grex Maripur, Karachi) which she claims was gifted to her by her late husband. She further alleged that the documents produced by the applicant were found to be forged during a police inquiry conducted prior to the registration of the FIR.

3. Learned counsel for the applicant argues that the applicant has been falsely implicated due to mala fide rooted in a longstanding civil and inheritance dispute, and he contends that the unexplained delay of 68 days in lodging the FIR gravely undermines the prosecution version. He submits that the police conducted an impermissible preliminary inquiry despite the allegations disclosing a cognizable offence, and he argues that Section 468, PPC is not attracted as no cheating, inducement, or fraudulent transaction is alleged. He further contends that the offences under Sections 448 and 471, PPC are bailable, while Section 468 carries a punishment that does not fall within the prohibitory clause; hence bail is a rule. He argues that no evidence has been collected to show that the applicant forged or caused forgery, nor has the actual maker of the document been identified, attracting further inquiry under Section 497(2), Cr.P.C. He maintains that no independent witnesses were associated, that the dispute is purely civil in nature, that co-accused have already been granted bail (invoking the rule of consistency), and that verification by the Mukhtiarkar Gothabad supports the applicant's version regarding the plot number. Lastly, he prays for the grant of bail.

4. Learned counsel for the complainant, on the other hand, opposes the application. He argues that the applicant is expressly nominated in the FIR as having led the alleged attempt at trespass and contends that the documents produced by the applicant were found forged during verification. He further argues that the complainant has consistently asserted her lawful ownership and that the applicant's acts constitute a deliberate attempt to usurp the property. He submits that the delay in the FIR stands sufficiently explained by the police inquiry and maintains that the applicant's conduct reflects his intention to illegally occupy the premises. Lastly, he prays for dismissal of the bail application.

5. Learned A.P.G. for the State similarly opposes the plea for bail. She argues that the allegations are supported by the investigation conducted thus far, including verification of forged documents and statements recorded from relevant witnesses. She contends that there is material to show the applicant's active role in the attempted encroachment and maintains that the delay in registration of the FIR is justified. She further argues that the matter involves an attempt at illegal dispossession and that the applicant's release may affect the course of investigation. Lastly, she prays for dismissal of the bail application.

6. I have carefully considered the arguments advanced by learned counsel for both sides and examined the record with their able assistance.

On a tentative assessment of the material available, it appears that the alleged incident took place on 26-06-2025, whereas the FIR was lodged on 04-09-2025. No plausible explanation for this considerable delay is reflected from the record, save the assertion that an internal “inquiry” was conducted by the police on an application. The complainant has herself admitted that the property was locked on the date of the alleged incident and that the relevant documents were submitted to the police thereafter. It is, however, settled law that conducting a preliminary inquiry prior to the registration of an FIR in cognizable offences is impermissible, and that prompt reporting is vital to eliminate the possibility of fabrication. An FIR lodged after an unexplained delay, particularly following such an inquiry, correspondingly loses much of its evidentiary value. The unexplained delay in the present case, therefore, creates doubt and brings the matter within the ambit of “further inquiry” as envisaged under Section 497(2), Cr.P.C. In similar circumstances, the Honourable Supreme Court of Pakistan in Case of ***Iftikhar Hussain and others v. The State (2004 SCMR 1185)*** held that: *“If there is any doubt in lodging of F.I.R. and commencement of investigation, it gives rise to a doubt in benefit of which, of course, cannot be extended to anyone else except to the accused. However, an F.I.R. under section 154, Cr.P.C. which has been lodged after conducting an inquiry loses its evidentiary value as held in the cases of Muhammad Hanif v. State PLD 1977 Lah. 1253, Mst. Muhammadia v. Zari Bacha and another PLD 1982 Pesh. 85, Nazir Masih v. State 1997 MLD 48, Muhammad Javed v. S.S.P. Gujranwala and others PLD 1.998 Lah. 214 and Qazi Muhammad Javed v. S.S.P. Gujranwala and others 1999 PCr.LJ 1645”.*

7. The principal offence invoked by the prosecution is Section 468, PPC (forgery for the purpose of cheating). However, the FIR does not allege any act of cheating, inducement, or fraudulent transaction. There is no assertion that the applicant used any document to deceive any person or authority. In these circumstances, the very applicability of Section 468, PPC becomes doubtful, thereby attracting the principle of *further inquiry*. Even otherwise, the maximum punishment under Section 468, PPC is seven years, placing it outside the prohibitory clause of Section 497, Cr.P.C. For offences not falling within the prohibitory clause, the grant of bail is a rule, and refusal is an exception, unless extraordinary circumstances are shown, none of which are present here. The prosecution case rests predominantly on police verification letters; however, no forensic, handwriting, or technical examination has been conducted. It has not been established who prepared the allegedly forged document, nor has any direct nexus between the applicant and the alleged

forgery been shown. This deficiency alone brings the matter within the ambit of “further inquiry” under Section 497(2), Cr.P.C., particularly when a deeper appreciation of evidence is the exclusive domain of the trial Court. Furthermore, the evidence collected is entirely documentary in nature and is already in the possession of the investigating agency and the concerned parties. In such circumstances, continued custody of the applicant would serve no meaningful investigative purpose. In similar circumstances, in Case of ***Jabran and another v. The State through Director General FIA and others (2025 SCMR 1099)***, the Honourable High Court of Sindh held that: *“Furthermore, the prosecution case is based upon documentary evidence only which is already available with FIA authorities and there is no apprehension of tampering with the same if the petitioner is admitted to bail”*.

8. The parties are admittedly step-relations, and the case essentially revolves around the title and possession of the property, which is already the subject matter of civil litigation. The material placed on record, including (i) the Sale Agreement of 1998, (ii) Extract Register transfers of 2001–2002, (iii) the Anti-Corruption complaint filed prior to the FIR, and (iv) verification letters issued by the Mukhtiarkar Gothabad, clearly reflects a longstanding civil and inheritance dispute. It is well-settled that criminal proceedings cannot be used to resolve civil controversies, a principle repeatedly underscored by the Honourable Supreme Court. A material contradiction also exists: while the FIR pertains to Plot No. 882, the verification issued by the Mukhtiarkar relates to Plot No. 556. This inconsistency strikes at the root of the prosecution case and further strengthens the view that the matter requires deeper scrutiny within the meaning of “further inquiry”. Furthermore, the co-accused, who are the sons of the applicant, have already been granted pre-arrest bail by the learned Sessions Court, and their role, as narrated in the FIR, is identical. Denial of bail to the present applicant would therefore offend the rule of consistency, particularly when no exceptional circumstances have been pointed out. The applicant is in custody; the investigation is complete; and no recovery is stated to be required from him. Continued detention would thus serve no useful purpose. In view of the above circumstances: (i) the case squarely falls within the ambit of “further inquiry” under Section 497(2), Cr.P.C.; (ii) the offences are non-prohibitory in nature; (iii) the allegations stem from a disputed civil claim; and (iv) significant contradictions cast doubt on the prosecution’s version. In such circumstances, bail is the rule and refusal an exception.

9. For the reasons discussed hereinabove, the instant Criminal Bail Application is allowed. The applicant/accused Nazeer Ahmed is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.100,000/- [Rupees One Hundred Thousand Only] and P.R. bond in the like amount to the satisfaction of the trial Court. The observations made herein are tentative and strictly confined to the decision of this bail application. They shall not influence the trial Court in any manner. These are the reasons of the Short Order dated: 07-11-2025.

**JUDGE**

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