

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1444 of 2025

Applicant : Mushtaq Ahmed son of Ahmed
through M/s. Zakia Khan & Irfan Gul
Memon, Advocates

Complainant : Babar Ali through M/s. Abdul Samee,
Ahsan Aamir and Sajjad ul Haque,
Advocates.

Respondents : The State through Mr. Mumtaz Ali Shah
Asstt. Prosecutor General Sindh

Date of hearing : 16.02.2026

Date of order : 16.02.2026

ORDER

TASNEEM SULTANA, J.— Through this Criminal Bail Application, the applicant Mushtaq Ahmed seeks pre-arrest bail in Crime No.127 of 2025 for the offences punishable under Sections 462-I and 462-H P.P.C., registered at Police Station Sujawal . Earlier, his bail before arrest application No. No.340 of 2025, was declined vide order dated 29-05-2025, passed by the learned Sessions Judge Sujawal. Hence this application for the same concession.

2. The record further reflects that the instant bail application was heard at an earlier stage and was dismissed through short order dated 20-10-2025, with detailed reasons to be recorded later on. However, upon perusal of the case file in Chamber, it transpired that further assistance of learned counsel was required, particularly in the context of recent statutory amendments governing the subject field; consequently, vide order dated 22-10-2025, the matter was directed to be re-fixed for rehearing with notice to learned counsel for the parties as well as learned Prosecutor General Sindh. The application, thus, again came up for consideration on merits for confirmation or otherwise of the interim pre-arrest bail earlier granted to the applicant.

3. Brief facts of the prosecution case , are that complainant Babar Ali, SDO HESCO Sub-Division Sujawal, reported that on 15-05-2025 he along with staff namely Metering Supervisor Abdul Hakeem, LM-II Abdul Ghafoor and Line Superintendent Abdul Aziz proceeded for checking illegal electricity connections and defaulters; upon reaching Hindu Muhalla Ward No.6 near Post Office Sujawal at about 1430 hours, they noticed an illegal electricity connection drawn from LT pole line providing electricity to a house; staff disclosed that such connection belonged to the present applicant who was

allegedly consuming electricity illegally; the connection was disconnected, 25-meter black wire was cut and taken into possession, footage and photographs were prepared through mobile phone and later converted into USB, whereafter FIR was lodged.

4. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that he is not residing at the alleged premises and CNIC reflects different place of residence; that no independent witness from locality has been associated; that no recovery has been effected from possession of the applicant; that the entire case rests upon subordinate departmental staff; that electronic footage allegedly prepared has not been forensically verified; that the applicant is a school teacher by profession having no criminal record; that he uses solar system supported by batteries and generator; that offences under Chapter XVII-B PPC operate within a special statutory framework; that cognizance is regulated through Section 462-O PPC which envisages complaint by duly authorized officer; that registration of FIR in routine police mechanism without adherence to prescribed statutory procedure raises jurisdictional question; that where law prescribes a particular mode for initiation of proceedings, deviation therefrom vitiates prosecutorial foundation; reliance is placed upon ***Muhammad Ibrahim v. The State (2021 P.Cr.L.J 412 Balochistan) and Zeeshan Anjum v. The State (2022 MLD 1091 Lahore)***.

5. Conversely, learned Special Prosecutor HESCO controverts the submissions and contends that the applicant is found involved in direct theft of electricity during departmental inspection; that illegal abstraction through bypass connection from L.T. line is detected; that illegal wire is severed on the spot; that photographic and video evidence is secured; that sufficient incriminating material connects the applicant with commission of offence; that after statutory amendments introduced through Criminal Law (Amendment) Act, 2016, offences under Chapter XVII-B P.P.C. are cognizable and non-bailable; that police is competent to register F.I.R. and conduct investigation; and that Section 462-O P.P.C. regulates only the stage of cognizance and does not bar registration of case; reliance is placed upon ***Muhammad Sohail v. SHO PESCO and others (2024 P.Cr.L.J 722 Peshawar); PESCO through Chief Executive Officer v. The State and others (2020 P.Cr.L.J 249)***.

6. Heard. Record perused.

7. Tentative assessment of the material placed on record reflects that the allegation against the applicant is that he is beneficiary of illegal abstraction of electricity through bypass connection allegedly detected during departmental

inspection. The prosecution case rests upon inspection proceedings conducted by officials of the distribution company and severance of alleged illegal wire. At this stage, it is noticeable that no independent witness from locality is associated at the time of inspection; the alleged illegal apparatus is not shown to have been recovered from conscious possession of the applicant; and the question whether the premises in question is in exclusive occupation or use of the applicant requires evidentiary substantiation through trial process, thereby calling for deeper appreciation of evidence.

8. The legal objection raised pertains to the statutory framework governing offences under Chapter XVII-B P.P.C., particularly the scope and effect of Section 462-O P.P.C. vis-à-vis initiation of criminal proceedings and assumption of cognizance. The statutory landscape, reshaped through Criminal Law (Amendment) Act, 2016 by incorporation of a special penal regime regulating electricity-theft offences, thus brings into focus the interplay between investigative initiation through police machinery and the complaint mechanism envisaged under the special law.

9. This legal question stands judicially examined in ***Muhammad Sohail v. SHO PESCO (2024 P.Cr.L.J 722)***, wherein the post-amendment statutory scheme was considered with reference to classification of electricity-theft offences and investigative competence, and it was articulated that consequent upon such statutory insertion and classification as cognizable offences, registration of F.I.R. and investigative proceedings through police machinery remain legally competent, while the statutory restriction embedded in Section 462-O P.P.C. regulates the stage of assumption of cognizance by the trial Court for purposes of prosecution rather than invalidating investigative initiation. Prima facie, therefore, the statutory objection raised does not, at this stage, render the initiation of proceedings legally untenable so as to furnish conclusive ground for pre-arrest bail. Nonetheless, attribution of conscious possession and evidentiary linkage remain matters requiring deeper probe through trial process.

10. In view of the above circumstances, the applicant has made out a case for confirmation of pre-arrest bail. Consequently, the instant pre arrest bail application is allowed and interim pre-arrest bail earlier granted on order dated 02.06.2025 is hereby confirmed on same terms and conditions.

11. Needless to mention that observations made herein are tentative in nature and shall not prejudice the case of either side at trial.

JUDGE