

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln. No.2996 of 2025.

Applicant : Raffay Siddiqui through Mr. Irshad Ahmed Jatoi a/w Syed Muhammad Nabeel Mustafa, Advocate.

Complainant : Ramia Sarfaraz through Mr. Muhammad Faisal, Advocate.

Respondent : The State through Mr. Sharafuddin Kanhar, A.P.G.

Date of hearing : 16.01.2026.

Date of order : 16.01.2026.

ORDER

TASNEEM SULTANA, J.:- Through the instant criminal bail application, the applicant has approached this Court, invoked its concurrent jurisdiction, and seeks pre-arrest bail in Crime No.174/2024, registered under Sections 408 & 420, P.P.C., Police Station Shareefabad, Karachi, without first availing the remedy before the Court of competent jurisdiction.

2. Brief facts of the prosecution case, as per the complainant, are that she engaged a driver, namely Muhammad Asad, for driving duties of her car. After a driving trial, he was asked to commence work from the next day. On 13.05.2024, the said driver took the complainant to the High Court and thereafter returned her home. Later, he was sent by the complainant's family for certain errands but failed to return along with the vehicle. Despite repeated contacts, he avoided returning, initially giving excuses and thereafter switching off his mobile phone. Ultimately, it transpired that the driver had taken away the vehicle and absconded, whereupon the present FIR was lodged alleging that the said driver deceitfully removed the vehicle, action to be taken.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that the complainant is an Advocate and by misusing her influence, is trying to harass and pressurize the applicant through a false and fabricated case; that the applicant was neither nominated in the F.I.R nor shown in the first challan dated 03.06.2024 and second supplementary challan dated 09.11.2024; that the applicant has been implicated subsequently through a delayed further statement of the complainant recorded after about eight months, wherein

she attributed information to absconding accused namely Bilawal, who allegedly disclosed that the stolen vehicle was with the applicant; that such disclosure attributed to an absconding accused is hearsay and is not supported by any independent corroboration or legally admissible material; that no tangible evidence has been produced to establish any nexus of the applicant with the alleged offence; that at the relevant time, the applicant was abroad on Ex-Pakistan leave and was in United Kingdom, therefore, the allegation of his involvement is inherently improbable; that the subject vehicle was recovered from Hyderabad from an abandoned place and no recovery has been effected from the custody or possession of the applicant; that co-accused persons have already been granted bail, hence the applicant is entitled to the concession on the rule of consistency; that he has not approached the trial Court due to apprehension of humiliation and threat, and has approached this Court by invoking concurrent jurisdiction. Learned counsel relied upon the case of **Rais Wazir Ahmad v. The State (2004 SCMR 1167)** in support of his contention.

4. Conversely, learned D.P.G assisted by learned counsel for the complainant opposed the bail application and contended that the applicant has been nominated during investigation and shown in the supplementary challans; that the allegations pertain to offences under Sections 408 & 420, P.P.C., relating to breach of trust and cheating; that pre-arrest bail is an extraordinary relief and cannot be granted as a matter of routine; that the applicant has failed to show any malafide on the part of the complainant or police; that the investigation has connected the applicant with the commission of offence, therefore, the applicant is not entitled to the concession; that the plea of innocence and absence from the country is a matter of defence which requires trial; and that grant of pre-arrest bail would prejudice the prosecution case.

5. Heard. Record perused.

6. The allegations, as emerging from the F.I.R, prima facie, disclose that the complainant hired one Muhammad Asad as driver for her vehicle, who allegedly took away the said vehicle and thereafter did not return, on the basis whereof the present F.I.R came to be registered under Sections 408 & 420, P.P.C. It further appears that the applicant was neither nominated in the F.I.R, nor his name transpired in the first challan dated 03.06.2024, and even in the second supplementary challan dated 09.11.2024. The applicant has been introduced subsequently through supplementary challans, mainly

on the strength of a delayed further statement of the complainant, wherein she attributed information to an absconding accused namely Bilawal, who allegedly disclosed that the stolen vehicle was with the applicant.

7. At this stage, whether such disclosure attributed to an absconding accused, without independent corroboration, constitutes legally admissible material so as to connect the applicant with the commission of the alleged offence; whether the applicant had any nexus with the alleged occurrence; whether the prosecution has collected any direct or circumstantial evidence establishing conscious possession, control, or participation of the applicant; and whether the necessary ingredients of mens rea and actus reus are prima facie available against him, are questions which require determination by the learned trial Court after recording of evidence.

8. Pre-arrest bail is an extraordinary relief, meant to shield an innocent person from humiliation and harassment through malafide arrest; however, at the same time, where the material placed before the Court indicates that the applicant has been implicated subsequently and the matter involves disputed factual aspects requiring adjudication at trial, such circumstances bring the case within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C.

9. Accordingly, interim pre-arrest bail granted to the applicant vide order dated 31.10.2025 was confirmed on the same terms and conditions, and consequently, this pre-arrest bail application stands allowed. These are the reasons of my short order dated 16.01.2026.

10. The observations made herein are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE