

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.24 of 2026

Applicant : Mst. Naz @ Saima Naz Wife of Muhammad Sharif through Mr. Waqar Ahmed Baloch, Advocate.

Respondents : The State through Mr. Khadim Hussain Khuharo, Deputy Prosecutor General Sindh.

Date of Hearing : 10.02.2026

Date of Order : 10.02.2026

ORDER

TASNEEM SULTANA, J.— TASNEEM SULTANA, J.— Through this criminal bail application, the applicant Mst. Naz @ Saima Naz seeks post-arrest bail arising out of Crime No. 567 of 2025 registered under Sections 337-J, 381 and 454, P.P.C. at Police Station Gizri, Karachi (South). Earlier, her Bail Application No. 4325 of 2025 was declined by the learned IX-Additional Sessions Judge, Karachi South vide order dated 27.11.2025; prior thereto, her post-arrest bail application No. 147 of 2025 was also declined by the learned Civil Judge & Judicial Magistrate-I, Karachi (South) vide order dated 19.11.2025; subsequently, another bail application bearing No. 4807 of 2025 was filed before the learned Additional Sessions Judge-IX, Karachi South, which was not pressed with permission to file afresh; hence, this application for the same concession.

2. Brief facts of the prosecution case are that the complainant Adnan Hayat Ansari stated that on 19.10.2025 at about 10:30–1600 hours, he was informed by his sister-in-law that upon returning from university she found the family members, namely his father, mother and grandmother, in an unconscious condition; they were shifted to Ziauddin Hospital and after their discharge during late hours of night, he inspected the house and found cupboards open and articles scattered; it was disclosed that the maid, namely Naz, had prepared breakfast in the morning and after consuming the same, the inmates lost consciousness; upon checking, cash amounting to Rs.8,00,000/- along with gold bars and various ornaments were found missing; the complainant alleged that the said maid had administered some intoxicant and thereafter committed theft.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that the complainant is not an

eyewitness and the entire case rests upon hearsay account; that no medical officer has been cited to substantiate administration of intoxicant; that no independent witness has been associated in the alleged recovery proceedings and the same has been foisted upon the applicant; that there is material discrepancy between the alleged stolen property and the items shown to have been recovered; that the applicant is a lady having no previous criminal record and the case of the applicant falls within the ambit of further inquiry; hence, she is entitled to the concession of bail.

4. Conversely, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, opposed the application and contended that the applicant was employed as a maid in the house and had access to the premises; that she has been specifically nominated in the F.I.R. with the allegation of administering intoxicant to the inmates and committing theft; that after the occurrence she did not return to her duties; that during the course of investigation certain articles have been recovered from her possession; that the allegations involve administration of sedative substance to multiple persons and cannot be treated lightly; and that sufficient material is available on record to connect the applicant with the commission of the alleged offence; therefore, she is not entitled to the concession of bail.

5. Heard. Record perused.

6. Perusal of record reflects that the applicant was admittedly working as a maid in the house in question, thereby having access and opportunity in relation to the occurrence; the allegation is not confined to a simple case of theft, rather it involves administration of intoxicant to the inmates of the house, rendering them unconscious, followed by removal of valuables, which prima facie aggravates the nature of the offence; the applicant has been nominated in the F.I.R. with a specific role and her identity is not in dispute; it further appears that after the occurrence she did not resume her duties and remained absent, which, at this stage, constitutes a circumstance requiring consideration; the record further reflects that certain articles have been shown to have been recovered from her possession during the course of investigation; the allegations attributed to the applicant are specific in nature and find support from the material collected during the course of investigation, which at this stage cannot be termed as doubtful; the contentions regarding absence of independent witnesses, alleged discrepancies in recovery and lack of medical support are matters which require deeper appreciation of evidence and cannot be conclusively determined at the bail stage and are matters for trial.

7. In order to examine the nature of the offence and the punishment provided therefor, it would be appropriate to have a bare reading of Section 454, P.P.C., which reads as under:—

“454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment. Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.”

A plain reading of the above provision shows that where the intended offence is theft, the punishment may extend up to ten years. It is further observed that Section 337-J, P.P.C. carries punishment of imprisonment up to three years, whereas Section 381, P.P.C. is punishable with imprisonment up to seven years along with fine; however, in the present case, the allegation also attracts Section 454, P.P.C., which provides punishment which may extend up to ten years.

8. In this context, it is now well-settled that for determining whether an offence falls within the prohibitory clause of Section 497, Cr.P.C., it is the maximum punishment prescribed which is to be considered. In *Majid Ali v. State* (2022 P Cr. L J 981 Islamabad), it has been held as under:

"6. A plain reading of Section 497 of Cr.P.C. suggests that it is the maximum sentence prescribed that is to be considered in relation to an offence for purposes of determining whether or not such offence falls within the prohibitory clause. Section 497(1) and the second proviso of such section, which are relevant for our present purposes, state the following:

497. When bail may be taken in case of non-bailable offence: (1) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, he may be released on bail but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life or imprisonment for ten years:

Provided further that a person accused of an offence as aforesaid shall not be released on bail unless the prosecution has been given notice to show cause why he should not be so released:

The first part of section 497(1) is permissive and allows a person arrested to be released on bail who is accused of a non-bailable offence. The second part of section 497(1) contains a prohibition against the release of a person arrested for being accused of a non-bailable offence, and has come to be

recognized as the prohibitory part of section 497 (i.e. the prohibitory clause). The prohibition is applicable in relation to a person who has been arrested after being accused of a non-bailable offence "punishable" with death or imprisonment for life or imprisonment for ten years. The operative word here is "punishable".

7. The word "punishable" has been defined by Black's Law Dictionary to mean "subject to a punishment" when used in relation to a person. The ordinary dictionary meaning of the word "punishable" therefore clarifies that in the event that an offence that a person has been charged with could possibly result in the punishment of ten years in prison such offence would fall within the prohibitory clause. Thus, any offence in relation to which punishment has been prescribed in the form of a range and it has been left to the court to determine the sentence in view of the facts of the case, but the maximum punishment that could possibly be awarded for such offence is ten years, would fall within the prohibitory part of section 497(1) of Cr.P.C. Simply put, it is the maximum punishment and not the minimum prescribed in relation to an offence under P.P. C. that determines whether or not the accused is "punishable" for ten years and whether the offence in question falls within the prohibitory clause or not. At bail stage it is not for the court to try and predict the possible sentence that would be imposed on a person under arrest for being an accused of a non-bailable offence."

It is a well-settled principle of law that at the bail stage only a tentative assessment of the material available on record is to be made and deeper appreciation of evidence is not permissible. The Court is required to examine whether there exist reasonable grounds to believe that the accused is connected with the commission of the alleged offence or whether the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.; such determination is to be made on a prima facie consideration of the material placed on record without entering into detailed evaluation thereof.

9. In the light of the above legal position and the material available on record, the applicant is prima facie connected with the commission of the alleged offence; therefore, the case does not fall within the ambit of further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the applicant has failed to make out a case for grant of post-arrest bail and, thus, is not entitled to the concession of bail; the instant bail application is dismissed.

10. The observations made herein are tentative in nature and shall not influence the learned trial Court in any manner.

11. These are the reasons for my short order dated 10.02.2026.

JUDGE