

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1025 of 2025

Applicant : Muhammad Faraz through
Mr. Asghar Ali Khan Advocate.

Complainant : Major Shakeel through Mr. Rasheed Ashraf
Mughal Advocate.

Respondent : The State through Mr. Muhammad Noonari,
DPG.

Date of hearing : 02.03.2026.

Date of order : 19.05.2026.

ORDER

TASNEEM SULTANA, J:- Through instant Criminal Bail Application, the applicant Muhammad Faraz seeks pre-arrest bail arising out of FIR No.323 of 2024 registered under Section 408 PPC at Police Station Bin Qasim. Earlier, his B.B.A No.51 of 2025 was declined by the learned Sessions Judge Malir vide order dated 04.03.2025, hence this application for the same concession.

2. The brief facts of the prosecution case as per FIR are that complainant Major Shakeel Ahmed, Head of Admin and Security Officer of Master Changan Motors Private Limited Company, lodged the instant FIR on behalf of the company against accused Muhammad Faraz son of Muhammad Shamim, Assistant Manager Fire & Safety Department, with the allegations that during annual audit conducted in the company certain irregularities were detected in Fire & Safety Department whereafter an inquiry was initiated; during such inquiry it transpired that accused Muhammad Faraz had established a company namely "The Professional" of shell company and by preparing forged and fake invoices, maintenance certificates and other documents caused huge financial loss to the complainant company by showing inflated prices of equipments and devices above market value and by reflecting lesser prices of instruments in company record; consequently, the instant FIR under Section 408 PPC was registered against the applicant/accused.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the present case with mala fide intention; that the prosecution story is entirely based upon internal audit proceedings and private inquiry report which have no independent legal sanctity; that ingredients of offence under Section 408 PPC are not attracted in the facts and circumstances of the present case

inasmuch as neither specific entrustment of property nor dishonest misappropriation has tentatively been attributed to the applicant; that admittedly the process relating to procurement, inspection, approval and release of payments involved various departments and officers of the complainant company, therefore, exclusive dominion over the alleged entrusted property cannot tentatively be attributed to the applicant alone; that no forensic audit, technical valuation or independent expert report has been collected by the prosecution to establish actual wrongful loss allegedly caused to the complainant company; that the allegations levelled in the FIR primarily relate to procurement irregularities and disputed business transactions for which criminal proceedings have maliciously been initiated; thus, at the most, the case of the applicant falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.; that the FIR has been lodged after considerable delay following departmental inquiry and audit proceedings for which no plausible explanation has been furnished by the prosecution; therefore, mala fide on the part of the complainant party cannot be ruled out at this stage. In support of his contentions, learned counsel relied on the case of **Syed Amanullah Shah v. The State and another (PLD 1996 SC 241)** and **M. Shaheryar v. The State (PLD 2025 Sindh 90)**.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, opposed the instant bail application and contended that sufficient incriminating documentary material has been collected during investigation connecting the applicant with commission of offence; that during investigation the Investigating Officer collected deed of partnership, account opening forms, operational mandate declarations, undertaking forms, bank account documents and bank statements which prima facie establish that the applicant was one of the partners and operators of "The Professional", the vendor company allegedly used in commission of offence; that the audit report stands corroborated through independent documentary material including banking trail, vendor registration documents and operational account record; that the applicant has failed to demonstrate any mala fide or ulterior motive on the part of complainant or police; that the delay in registration of the FIR stands explained by the fact that the matter initially surfaced during audit proceedings and thereafter inquiry was conducted and documentary material was collected before registration of the crime; therefore, no case for extraordinary concession of pre-arrest bail is made out; and thus prayed for dismissal of the instant bail application.

5. Heard. Record perused.

6. Perusal of record reflects that during investigation the prosecution has collected documentary material connecting the applicant with the vendor entity namely "The Professional". The material collected by the Investigating Officer includes deed of partnership, request for opening of bank account, operational mandate declarations, undertaking forms, bank account documents and bank

statements. Prima facie, the said documents reveal that the applicant was one of the partners of the vendor company and was authorized in relation to operation of the account allegedly used in the questioned transactions.

7. The audit and inquiry proceedings conducted by the complainant company further reflect allegations regarding use of forged and fake invoices and inflated pricing of equipments and devices causing financial loss to the complainant company. At this stage, the said allegations are not resting merely upon bald oral assertions of the complainant but are prima facie supported by documentary material collected during investigation. Though learned counsel for the applicant argued that essential ingredients of Section 408 PPC including entrustment and dishonest misappropriation are not attracted in the present matter, however such defence requires deeper appreciation of evidence and detailed examination of documentary material which can only be undertaken during trial. Prima facie, the material collected by the prosecution reflects nexus of the applicant with the alleged vendor structure and financial transactions under inquiry.

8. Pre-arrest bail is an extraordinary concession which is to be granted sparingly in exceptional circumstances where the accused succeeds in establishing mala fide, ulterior motive or abuse of process of law. Such concession cannot be extended as a matter of course merely because the accused has raised an arguable defence on merits. In the case of ***Muhammad Faiz alias Bhoora v. The State (2015 SCMR 655)***, the august Supreme Court of Pakistan has held as under:-

“The grant or refusal of bail depends upon the peculiar facts and circumstances of each case and no universal principle of law can be deduced therefrom. It is well settled by now that bail matters cannot be decided merely on the basis of precedents without examining the facts of each case independently.”

9. In view of the above facts and circumstances, the case law relied upon by learned counsel for the applicant is distinguishable on facts. Consequently, learned counsel for the applicant has failed to bring the case of the applicant/accused within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C. Accordingly, the instant bail application is dismissed and the interim pre-arrest bail granted by this Court to the applicant/accused Muhammad Faraz vide order dated 21.04.2025 is hereby recalled.

10. The observations made hereinabove are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

JUDGE