

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 797 of 2026

Applicant : Syed Adeel Raza, through Mr. Zahid Hussain, Advocate.

Complainant : Mst. Raheela Ghazal, through Mr. Kashif Nazeer, Advocate.

Respondent : The State, through Mr. Qamaruddin Noher DPG.

Date of hearing : 25.05.2026.

Date of judgment : 25.05.2026.

ORDER

TASNEEM SULTANA – J:- Through this criminal bail application, the applicant/accused Syed Adeel Raza seeks post-arrest bail emanating from FIR No.42 of 2026, registered under sections 420/406, P.P.C. at Police Station Clifton, Karachi. The applicant's earlier bail application bearing Criminal Bail Application No.735 of 2026 was dismissed by the learned Additional Sessions Judge-IX, Karachi South, vide order dated 27.02.2026. Hence, the present application for the same concession.

2. The brief facts of the prosecution case are that complainant alleged that her son Ammar Ali Shah, residing in Canada, came into contact with applicant/accused Syed Adeel Raza in connection with the purchase of two flats situated at ARY Laguna DHA City, Karachi through MAK Enterprises. It has been alleged that in pursuance thereof an agreement dated 05.09.2023 was executed between the parties at the office of the accused situated at Mezzanine Floor, Building No.6-C, 32nd Street, Tauheed Commercial Area, Phase-V, DHA, Karachi, and her son transferred various amounts through online banking transactions into the UBL account of the accused from September 2023 till July 2025 towards advance and installments of the said flats, whereby an aggregate amount of Rs.13,080,000/- was paid. It has been further alleged that despite receipt of the aforesaid amount, the accused neither transferred the property/file in favour of the complainant's son nor handed over the relevant ownership documents and continued to delay the matter on one pretext or another. It has been further alleged that despite repeated demands applicant neither transferred the property nor refunded the amount and also extended threats, whereafter the present FIR was registered.

3. The learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case; that the complainant herself did

not make any payment to the applicant and the alleged transaction pertains to her son; that the applicant was merely working as Head of Sales/Sales Representative of MAK Enterprises and was neither owner of the project nor beneficiary of the alleged amount; that the dispute arises out of an agreement to sell and is purely contractual in nature; that the amount in question was paid as sale consideration and not as trust property or amanat; that the essential ingredient of entrustment, required for constituting an offence under sections 405/406, P.P.C., is conspicuously absent from the FIR and the material collected during investigation; that the banking record placed on file demonstrates onward transfers of substantial amounts to MAK Enterprises and Muhammad Arshad Khan, thereby rendering the role and liability of the applicant a matter requiring evidence; that official booking forms, receipts, instalment schedules and company documents show that the transaction was conducted through MAK Enterprises in relation to the ARY Laguna DHA City project; that mere non-transfer of property or failure to fulfil contractual obligations does not amount to criminal breach of trust; that the dispute between the parties is essentially of a civil/commercial nature and has been given a criminal complexion; that the case is squarely covered by ***Muhammad Amjad Naeem v. State (2025 SCMR 1130)***, ***Majid Ali v. State (2025 PCr.LJ 1543)*** and ***Phaphi v. State (2026 MLD 187)***; that the controversy requires deeper appreciation of documentary evidence and, therefore, the case falls within the ambit of further inquiry as contemplated under section 497(2), Cr.P.C.; that challan has already been submitted, no further recovery is to be effected and the applicant is no more required for investigation; that the applicant is a first offender with no previous criminal record; and that since the alleged offence does not fall within the prohibitory clause of section 497, Cr.P.C., the applicant is entitled to the concession of bail.

4. Conversely, learned A.P.G. for the State, assisted by learned counsel for the complainant, vehemently opposed the bail application and contended that the applicant is specifically nominated in the FIR; that he actively induced the complainant's son to purchase two flats in ARY Laguna DHA City and executed the agreement dated 05.09.2023; that pursuant thereto an amount of Rs.13,080,000/- was transferred through banking channels into the personal account of the applicant, receipt whereof is not disputed; that despite receiving the aforesaid amount, the applicant neither transferred the property nor handed over the relevant title documents and, instead, kept the complainant party on false assurances for a considerable period; that the documentary evidence including the agreement, booking documents, receipts, remittance record and bank statements prima facie substantiate the prosecution case; that the plea that the applicant was merely a sales representative of MAK Enterprises is a question of defence which requires evidence and cannot be examined in depth at the bail stage; that even if MAK Enterprises existed, the amount was admittedly received in the personal account of the applicant and the property was never transferred nor was the amount refunded; that the material collected during investigation prima facie establishes dishonest inducement

and criminal breach of trust on the part of the applicant; that no mala fide has been alleged against the complainant or investigating agency; that the case does not fall within the ambit of further inquiry as contemplated under section 497(2), Cr.P.C.; and that reliance was placed upon ***Muhammad Ali v. Samina Qasim Tarar (2022 SCMR 2001)***, ***Malik Muhammad Tahir v. State (2022 SCMR 2040)***, ***2025 YLR 827***) and ***2012 YLR 1243*** to contend that where the accused receives money on the basis of representations and subsequently fails to honour his commitments, the concession of bail is not warranted; therefore, the applicant does not deserve the concession of bail.

5. I have considered the submissions advanced by learned counsel for the applicant, learned D.P.G assisted by learned counsel for complainant and have gone through the material available on record with their able assistance. A perusal of the record reveals that the prosecution case arises out of an agreement relating to the purchase of two flats in ARY Laguna DHA City and transfer of an amount of Rs.13,080,000/- through banking channels into the account of the applicant. It further appears that the property has not been transferred in favour of the complainant's son. The record also shows that the transaction in question was conducted through MAK Enterprises and that various booking documents, receipts, instalment schedules and banking record have been brought on record by the parties.

6. At this tentative stage, it appears that the matter stems from a documented transaction supported by contractual and banking record. The record further reveals that the transaction was admittedly undertaken through MAK Enterprises and that documentary material has been brought on record by both sides regarding receipt and onward transfer of the alleged amount. In such circumstances, the precise nature of the transaction, the extent of the applicant's involvement therein and the applicability of the penal provisions invoked in the FIR are matters which can only be determined after recording of evidence. Since these aspects require deeper appreciation of the material available on record, which is not permissible at the bail stage, the case of the applicant falls within the ambit of further inquiry as contemplated under section 497(2), Cr.P.C.

7. Section 420, P.P.C. is bailable while section 406, P.P.C., being punishable with imprisonment which may extend to seven years, does not fall within the prohibitory clause of section 497(1), Cr.P.C. The Hon'ble Supreme Court in the case of *Iftikhar Ahmed v. The State* (PLD 2021 SC 799) has held in categorical terms that grant of bail in offences not falling within the prohibitory clause of section 497, Cr.P.C. is a rule and refusal thereof is an exception, and has directed the Courts of the country to follow this principle in its letter and spirit, as the principles of law enunciated by the Hon'ble Supreme Court are constitutionally binding under Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973 upon all Courts throughout the country.

8. In view of the above facts and circumstances, the applicant has succeeded in making out a case of further inquiry within the meaning of section 497(2), Cr.P.C. Consequently, the instant post-arrest bail application is allowed, and the applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

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

JUDGE

Nadeem Qureshi *PA*