

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.863 of 2026

Applicant : Mst. Rozina alias Lubna through M/s. Siraj Ahmed Khoso and Adnan Ali, Advocates.

Respondent : The State through Mr. Muhammad Noonari, Deputy Prosecutor General, Sindh.

Date of hearing : 04.05.2026.

Date of order : 04.05.2026.

O R D E R

TASNEEM SULTANA, J.— Through the instant criminal bail application, applicant Mst. Rozina alias Lubna seeks post-arrest bail in F.I.R. No.85 of 2026, registered under Sections 397, 411 and 34, P.P.C. at Police Station Zaman Town, Karachi. Earlier, her Criminal Bail Application No.1279 of 2026 was dismissed by the learned Sessions Judge, Karachi East, vide order dated 04.03.2026; hence, the instant application for the same relief.

2. The brief facts of the prosecution case are that the complainant, Muhammad Mohsin, stated that on 21.01.2026, at about 1500 hours, while present at his factory, he received information from his neighbour that a robbery had been committed at his residence and firing had also taken place. Upon reaching there, he found the household articles scattered and his wife and children frightened. His wife informed him that at about 1430 hours, when she opened the gate for their son, who had returned from school, three unknown armed persons forcibly entered the premises. One of them confined her and the child in a room at gunpoint, while the remaining accused searched the cupboards and other household articles. When she raised an alarm, one of the accused resorted to firing, whereafter they fled on motorcycles. Upon checking the premises, the complainant found that cash amounting to Rs.64,10,000/-, gold ornaments weighing approximately 13 tolas, gold biscuits weighing about 68 grams and BMW silver biscuits weighing approximately 100 tolas had been stolen. The matter was reported to Police Helpline 15, whereupon police officials, along with the Crime Scene Unit, reached the place of incident and collected evidence. Consequently, the F.I.R. was lodged against three unknown accused persons, whom the complainant's wife claimed to be able to identify.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case due to mala fide and ulterior motives; that no specific role has been assigned to her in the commission of the alleged offence; that she was picked up from her house,

illegally detained and subsequently shown arrested in the instant F.I.R.; that no incriminating article or weapon connected with the offence was recovered from her possession or at her pointation; that the prosecution evidence against her is insufficient; that during investigation she was implicated only under Section 411, P.P.C., and no other substantive offence was found to have been committed by her; that the police falsely involved her upon her failure to satisfy an illegal demand for bribe; that no independent witness was associated with the alleged recovery proceedings; that the alleged recovery was foisted upon her in violation of Section 103, Cr.P.C.; that no identification parade was conducted through the eyewitnesses; and that her case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. He, therefore, prayed for grant of bail.

4. Conversely, learned D.P.G. opposed the bail application and contended that during investigation the applicant was connected with the commission of the offence; that the stolen property was recovered from her house; that no case for further inquiry is made out in the facts and circumstances of the case; and that she is, therefore, not entitled to the concession of bail.

5. Heard. Record perused.

6. It appears from the record that the F.I.R. was lodged against unknown accused persons. During investigation, one of the accused, namely Muhammad Ilyas, was arrested in another criminal case and, during interrogation, disclosed his involvement in the present offence and nominated Abdullah and Fayaz alias Babli alias Raheem as his accomplices. The complainant's wife subsequently identified Muhammad Ilyas during an identification parade. Thereafter, on 06.02.2026, co-accused Abdullah and Fayaz alias Babli alias Raheem were also arrested in another criminal case and, during interrogation, disclosed their involvement in the present crime and specifically nominated the applicant as the beneficiary and custodian of the stolen property.

7. The record further reflects that a raid was conducted at the house of the applicant, where she was arrested and the stolen articles were allegedly recovered. Such recovery tentatively connects her with the alleged retention of the stolen property. The contention that the recovery was foisted upon the applicant and that no independent mashir was associated with the recovery proceedings relates to the evidentiary value of the prosecution material. Whether the recovery is legally sustainable and trustworthy requires deeper appreciation of evidence, which is not permissible at the bail stage. At this tentative stage, the alleged recovery provides sufficient corroboration to the

prosecution case. The objection regarding non-compliance with Section 103, Cr.P.C. also relates to the evidentiary value of the recovery and cannot be conclusively determined while deciding the bail application.

8. At the bail stage, the Court is required only to make a tentative assessment of the material available on record and not to conduct a roving inquiry into its probative value. The plea that the applicant was picked up earlier by the police and remained in illegal custody before her formal arrest involves a disputed question of fact, which cannot conclusively be determined at this stage. Since the applicant is not alleged to have participated in the robbery and her role is confined to retaining the stolen property, non-holding of her identification parade does not, at this stage, advance her case. In *Shahzad Qasim v. The State* (2009 SCMR 1488), the Honourable Supreme Court of Pakistan held that observations made at the bail stage are tentative in nature and should not influence the trial on its merits.

9. The Honourable Supreme Court of Pakistan in **Shameel Ahmed v. The State (2009 SCMR 174)** held that grant of bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case is to be examined in the light of its own facts and circumstances. Likewise, in **Afzaal Ahmed v. The State (2003 SCMR 573)**, it was held that the mere fact that an offence does not fall within the prohibitory clause does not automatically entitle an accused to bail, as the Court retains discretion to grant or refuse bail in accordance with the settled principles governing such relief.

10. In view of the foregoing facts and circumstances, particularly the alleged recovery of stolen property from the house of the applicant and the material tentatively connecting her with its retention, she has failed to make out a case for further inquiry within the contemplation of Section 497(2), Cr.P.C. Consequently, no ground has been made out for grant of post-arrest bail. The instant bail application was, therefore, dismissed vide short order dated 04.05.2026. These are the reasons thereof.

11. It is clarified that the observations made herein are tentative in nature and shall not influence the learned trial Court while deciding the case on its own merits.

JUDGE