

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.737 of 2026

Applicant : Ismail, Through: Mr. Muhammad Baqar Mehdi, Advocate

The State : The State: Through: Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh assisted by Ms. Rukhsana Mirjat, ADPP

Date of hearing : 16.04.2026

Date of Order : 16.04.2026

ORDER

Jan Ali Junejo, J:-- Through this order, I propose to decide the instant Criminal Bail Application filed by applicant Ismail son of Muhammad Hussain under Section 497 Cr.P.C., seeking post-arrest bail in case FIR No.11 of 2026, registered under Sections 380/457 PPC at Police Station Sher Shah, Karachi. Earlier, bail application of the applicant was declined by the learned VIIIth Additional District & Sessions Judge, Karachi West vide order dated 09.02.2026.

2. Briefly stated, as per contents of the FIR, complainant Rofail son of Abdul Kareem alleged that he was serving as Transport Manager in SS Feed Company and on 08.01.2026 eight containers loaded with Yellow Peas were dispatched towards Haroonabad Super Kanta through different vehicles. It was alleged that vehicle No. JT-8133, being driven by applicant Ismail along with co-accused Qasim, deviated from its route and remained stationed for about fifty minutes at Plot No.8, Gulbai Area. Upon reaching destination, seal of container No.TLLU2035804 was found broken and shortage of 1500 kilograms of Yellow Peas valuing Rs.18,78,000/- was

detected. Upon inquiry, the applicant and co-accused allegedly failed to give satisfactory explanation, whereafter present FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in this case due to mala fide intentions. He argued that there is unexplained delay in lodging the FIR; no private witness was associated; no CCTV footage was collected despite availability; no recovery was effected from the possession of applicant; and the case calls for further inquiry within meaning of Section 497(2) Cr.P.C. He further submitted that the applicant is behind bars since arrest, is a permanent resident of Karachi, and undertakes to furnish solvent surety. He prayed that applicant may be admitted to bail.

4. Conversely, learned Assistant Prosecutor General opposed the bail application and submitted that the applicant is specifically nominated in the FIR with active role. He argued that sufficient incriminating material is available connecting the applicant with the commission of offence; loss of substantial quantity of goods was caused; and the prosecution case is supported by statements of witnesses. He therefore prayed for dismissal of the bail application.

5. I have considered the arguments advanced by the learned counsel for the parties and examined the available record with their assistance. Tentatively, it appears that the allegation against the applicant is based mainly upon suspicion arising from alleged route deviation of the vehicle and subsequent shortage of goods. No direct

evidence has been brought on record showing that the applicant was seen removing or dishonestly misappropriating the alleged commodity. Admittedly, no recovery has been effected from possession of the present applicant. The prosecution case would require further evidence during trial to establish entrustment, dishonest intention, and actual participation of applicant in alleged theft. It is also noticeable that despite the incident allegedly occurring on 08.01.2026, the FIR was lodged subsequently after delay, and the question whether such delay stands satisfactorily explained shall be a matter for deeper appreciation at trial. Likewise, absence of independent corroborative material at this stage, including technological evidence such as CCTV footage, renders the matter one requiring further probe. Section 457, P.P.C. prescribes two distinct punishments. Where a person commits lurking house-trespass by night or housebreaking by night in order to commit any offence punishable with imprisonment, such offender shall be liable to imprisonment of either description for a term which may extend to five years, along with liability to fine. However, where the intended offence is theft, the legislature has prescribed a substantially enhanced punishment extending up to fourteen years' imprisonment, thereby recognizing the aggravated nature of nocturnal housebreaking committed with intent to steal. In the present case, however, it is yet to be determined through further inquiry as to what specific offence was intended or actually committed by the Applicant. Consequently, at this tentative stage and for the purposes of bail, the lesser punishment provided under Section 457, P.P.C. is to be considered. The lesser punishment

prescribed for the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C. Even otherwise, the tentative assessment of material presently available reflects that the guilt of applicant requires further inquiry as contemplated under Section 497(2) Cr.P.C. It is settled law that at bail stage only tentative assessment is to be made and deeper appreciation of evidence is to be avoided. The applicant is in custody and trial is yet to conclude. No material has been shown that if released on bail he would abscond or tamper with prosecution evidence.

6. For the foregoing reasons, this Criminal Bail Application is allowed. Applicant Ismail son of Muhammad Hussain is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. It is, however, clarified that all observations hereinabove are purely tentative and confined to the adjudication of the present bail application. Nothing stated in this Order shall be construed as an opinion on the merits of the case, and the trial Court shall proceed independently, uninfluenced by any observations contained herein. These are the detailed reasons for the short order dated 16.04.2026.

JUDGE