IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2449 of 2026

Applicant	:	Akram son of Shabrati Through Mr. Javed Jabbar Kolachi, advocate
Complainant	:	Syed Musharaf Waris Son of Syed Ibn Husain Shad Through; Nemo
The State	:	Through Ms. Seema Zaidi, Addl. P. G. Sindh.
Date of hearing	:	28.10.2026.
Date of Order	:	28.10.2026.

O R D E R

Jan Ali Junejo, J:-- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant namely Akram son of Shabrati, who seek his release on bail in connection with FIR No.156 of 2026 registered at Police Station Awami Colony, Karachi for the offences punishable under Sections 380/454/34 PPC. The applicant has approached this Court being aggrieved by the order dated 25.05.2026 passed by the learned Additional Sessions Judge-IV, Karachi East whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that the complainant Syed Musharaf Waris son of Syed Ibn Hussain Shad stated that he was residing with his family at the above-mentioned address and was engaged in private business. He further stated that his factory, situated at Plot No. 2, Sector 27, Korangi Industrial Area, Karachi, had remained closed for about one year, where a blue-coloured Princeton V-21 generator was lying. He alleged that on 05.03.2026, at about 1230 hours, his security guard informed him over the telephone that Akram, a contractor known to him, alongwith three or four accomplices, had taken away the generator from the factory. The complainant immediately

contacted Akram, who allegedly admitted that he had taken the generator due to financial need and assured him that he would pay some amount towards its value after Eid. When the complainant objected that the act constituted theft and demanded the immediate return of the generator, Akram stopped answering his telephone calls. Consequently, the complainant approached the police and sought legal action against Akram and his three or four accomplices for allegedly stealing the generator from his factory, hence, this FIR.

3. Learned counsel for the applicant/accused contends that the applicant is innocent and has been falsely implicated in the present case with mala fide intention and ulterior motives, as he has no concern with the alleged offence. He submits that there are material contradictions and improbabilities in the prosecution case, particularly as the complainant has failed to disclose the name of the security guard who allegedly informed him about the removal of the generator. He further argues that the alleged generator, being a heavy 21 KVA unit, could not have been removed without substantial arrangements, including a vehicle and considerable time, yet the complainant did not immediately reach the place of incident despite receiving information. He also points out that the factory had allegedly remained closed for about one year, while the security guard neither resisted nor prevented the alleged removal of the generator, rendering the prosecution story doubtful and requiring further inquiry. He further submits that no independent evidence has been produced to connect the applicant with the commission of the alleged offence, no incriminating article has been recovered from his exclusive possession or on his pointation. He also contends that there is an unexplained delay in lodging the FIR, which further casts doubt on the prosecution case. Learned counsel adds that the applicant is a senior citizen aged over 50 years and is suffering from various ailments requiring proper medical treatment. He lastly submits that the investigation has been completed and the challan has been submitted before the trial Court; therefore, the applicant is no longer required for further investigation, the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C., and the case calls for further inquiry within the meaning of

Section 497(2) Cr.P.C. Accordingly, he prays for the grant of bail to the applicant.

4. Conversely, the learned Additional Prosecutor General, Sindh has vehemently opposed the grant of bail to the applicant on the ground that no previous enmity existed between the complainant and the applicant to suggest false implication. She, therefore, prays for the rejection of bail.

5. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General, Sindh, and have perused the available record with their assistance.

6. The complainant is admittedly not an eyewitness to the alleged occurrence, and the information regarding the removal of the generator was allegedly conveyed to him by the security guard over the telephone. The alleged admission attributed to the applicant, as conveyed by the complainant, requires cautious assessment at trial and, in the absence of independent corroboration, cannot by itself be treated as sufficient to establish his involvement at this stage. Furthermore, only battery of generator was recovered from the possession of the applicant. The alleged offence under Section 380, P.P.C., carries a punishment extending up to seven years and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. As for Section 454, P.P.C., it prescribes two distinct levels of punishment depending on the nature of the intended offence. Generally, lurking house-trespass or house-breaking with intent to commit any offence punishable with imprisonment attracts imprisonment of either description for up to three years, along with a fine. However, if the intended offence is theft, the punishment may extend to ten years, in addition to a fine. It remains to be determined at trial whether the alleged lurking house-trespass or house-breaking occurred, and if so, whether it was committed with intent to commit any offence, or specifically theft. The investigation is complete, and the applicant is no longer required for further interrogation. The prosecution's case is, at best, circumstantial and based on conjecture rather than direct evidence. Therefore, further inquiry into the applicant's guilt within the meaning of Section 497(2), Cr.P.C. is

clearly attracted. It is a settled principle that bail, not jail, is the rule particularly when the evidence against an accused is weak, doubtful, or requires further inquiry. Reference may be made to the case of Tariq Bashir and 5 others v. The State (PLD 1995 SC 34) and Muhammad Tanveer v. The State (PLD 2017 SC 733).

7. In view of the foregoing discussion, it appears that the applicant has made out a case of further inquiry within the contemplation of Section 497(2), Cr.P.C. The applicant's continued detention would serve no fruitful purpose.

8. For the reasons delineated hereinabove, this Criminal Bail Application is hereby allowed. The applicant Akram son of Shabrati is granted post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs. 1,00,000/- (Rupees One Lac only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. The observations made herein are tentative in nature and are only for the purpose of this Order, and shall not prejudice the case of either party at the trial.

JUDGE