

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Hasan (Akbar)

Criminal Bail Application No.1034 of 2025

Applicant : Ashir Atiq son of Atiq Ahmed
Through Asadullah Burdi, Advocate

Complainant : Rais Ahmed, Assistant Manager, ASF
(Foundation)1

Respondent : Through Mr. Qamaruddin,
Deputy Prosecutor General, Sindh

Date of hearing : 02.06.2025

Date of order : 02.06.2025

ORDER

Muhammad Hasan (Akbar), J -- Through this Bail Application, the applicant/accused seeks pre-arrest bail in Crime No.34/2025 registered under Sections 420, 408, 468, 471, 34 PPC at P.S Airport, Karachi, after his bail plea has been recalled by learned VIIIth Additional Sessions Judge-Malir vide order dated 18.04.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. The FIR was initiated on complaint from Airport Security Force (Foundation) alleging therein that the applicant, in connivance with other accused persons, was an employee of the foundation cheated and defrauded general public. Specific allegation against the applicant is for Rs.19,281,000/-. The allegation was that the applicant and another accused Javed prepared fake receipts and sold 29 plots in collusion with A.R Marketing.

4. Learned counsel for the applicant argued that the FIR has been lodged after delay of three years, that no complaint has come up for recording his statement, that none of the private complainant has named in the FIR or the charge sheet produced before he police in the entire allegations or verbally. Even no name has been traced in the account of the applicant, which according to the learned counsel was also provided to the Investigation Officer.

5. Conversely, learned counsel for the complainant and the learned DPG opposed the bail application and presented photocopies of certain documents in support of the allegations raised in the FIR.

6. Heard and perused the record.

7. This court there appears to be a clear delay of three years without any explanation on part of the complainant in lodging the FIR. None of the persons, who with whom the alleged fraud has been committed has come forward to record their statement. Even during course of hearing when learned counsel for the complainant was inquired, no complaint from out of 45 complainants was lodged or available. None of the complainant have recorded their statement under Section 161 Cr.P.C. Even the alleged fake receipts have also been verified by the I.O as yet.

8. Admittedly, the applicant was an employee of the foundation and was authorized for sales and marketing of plots. The applicant is not a previous convict and the entire case of the prosecution is based on documentary evidence, which is already in custody of the prosecution, hence neither any apprehension of tempering with the evidence appears nor it is alleged by the prosecution that the applicant is flight risk. In the charge sheet, it is clearly mentioned that none of the complainant have recorded their statement under Section 161 Cr.P.C. There are disputed question of facts which are yet to be thrashed out by the learned trial court after recording the evidence at the trial stage and therefore in the light of dicta led down by the Hon'ble Supreme Court in **Ahmed Shakeel Bhatti Vs. the State (2023 SCMR 1)**. Moreover, mere allegations of fraud and huge amount is no ground to decline the bail to the accused and while granting interim pre-arrest bail, merits of the case can

be touched upon by the court, as held in ***Miran Bux Vs. the State (PLD 1989 SC 347)***, ***Sajid Hussain @ Joji Vs. the State (PLD 2021 SC 989)***, ***Javed Iqbal Vs. the State (2022 SCMr 1424)*** and ***Muhammad Ijaz Vs. The State (2022 SCMR 1271)***.

9. In view of the above, the instant bail application is **allowed** and the interim pre-arrest bail granted by this Court to the applicant/accused vide order dated 22.04.2025 is hereby **confirmed** on same terms and conditions.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE

Hyder/PS