

Crl. Bail Application No.451 of 2025

Date: _____ Order with signature(s) of the Judge(s) _____

For hearing of bail application.

21-03-2025

M/s. Farhan Ali & Mujeer Ali, advocate for Applicant/accused.
Mr. M. Ibatasam Khalil, Advocate for SSGC.

Jan Ali Junejo, J.— Through this order, I intend to decide the post-arrest bail application filed under Section 497 Cr.P.C by the learned counsel for the applicant/accused, Muhammad Shakeel, who is facing trial before the learned Gas Utility Court at Karachi. The applicant was booked in FIR No.04/2025, registered at Police Station SSGC Karachi, under Sections 15, 17, and 24 of the Gas (Theft Control & Recovery) Act, 2016. The case pertains to the alleged theft of gas for unauthorized commercial usage. The learned Link Judge of the Gas Utility Court at Karachi had earlier dismissed the bail application vide order dated 12.02.2025. Aggrieved by the impugned order, the applicant has approached this Court for post-arrest bail.

2. As per the prosecution case, on 16.01.2025, at about 1200 hours, the complainant, Dr. Abdul Rasheed Kalwar, Deputy Manager SSGC, along with technical staff, police officials, and Kamran Iqbal KPO, acting upon spy information, reached Plot No. 24/C, Haji Terminal, Gul Town Sector-1/A-1, Scheme 33, near Sohrab Goth. Upon inspection of a shop named Pak Islam Dairy Farm, it was found that a 15-KVA generator was illegally

being run on stolen gas connected through a rubber pipe from the auxiliary Sui Gas line. The stolen gas was supplying electricity to the shop. The illegal connection was disconnected, and incriminating materials, including a generator, a stove, rubber pipes, and a gas kit, were seized. The shop owner was identified as Muhammad Shakeel S/o Muhammad Sain, who was not present at the scene but was later arrested based on the information provided by the informer.

3. The learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the case. He contended that the applicant is not the owner or tenant of the said shop and was merely a visitor. He further submitted that the prosecution has failed to produce any documentary evidence, such as ownership or tenancy records, connecting the applicant to the shop. The counsel emphasized that the applicant was arrested solely based on the statement of a spy informer without any independent witnesses or supporting evidence. He argued that the case against the applicant requires further inquiry as per the principles laid down by the superior courts. He further submitted that the applicant has no previous criminal record, is the sole breadwinner of his family, and is ready to furnish solvent surety to the satisfaction of the Court. On these grounds, he prayed for the grant of bail.

4. Conversely, the learned counsel for SSGC opposed the bail application, arguing that the applicant is directly involved in the theft of gas, which is a serious offense affecting the public exchequer. He contended that the applicant was identified as the owner of the shop, and the recovery of stolen gas materials from the premises confirms his involvement. He further argued that gas theft is a growing menace, and

granting bail to the accused would set a negative precedent. The learned counsel maintained that the offense, though not falling within the prohibitory clause of Section 497 Cr.P.C, still falls within the exceptional category due to the economic loss caused to the SSGC. Therefore, he prayed for the dismissal of the bail application.

5. I have carefully considered the submissions made by the learned counsel representing the applicant as well as the learned counsel for SSGC. I have also examined the available record, making a tentative assessment as is permissible at the bail stage under the law. Upon review, it is observed that the alleged offence under Section 15 of the Act, 2016 carries a lesser punishment of up to five years' imprisonment and a fine of up to three million rupees. Similarly, Section 17 of the same Act prescribes a maximum punishment of ten years' imprisonment, with a lesser punishment of five years' imprisonment and a fine of up to five million rupees. In light of this, the lesser punishment is to be taken into account for the purpose of bail consideration. Consequently, the offences alleged do not attract the prohibitory clause under Section 497(1) of the Criminal Procedure Code (Cr.P.C.). The principle of bail being a rule and its refusal an exception applies in such cases, as held by the Superior Courts. From the record, it appears that the applicant was not arrested from the spot, and no direct evidence exists to establish that he was actively involved in the gas theft. The prosecution has not produced any documentary proof, such as a rent agreement or ownership document, to conclusively link the applicant to the alleged shop. Furthermore, the investigation appears to be defective as no independent witnesses or video evidence have been brought on record. It is a settled principle of law that mere involvement in

an FIR does not disentitle an accused from bail unless the prosecution presents prima facie material justifying continued incarceration. The case against the applicant requires further inquiry, and his continued detention would serve no useful purpose. Moreover, the accused has no prior criminal record, and there are no exceptional circumstances justifying the denial of bail. The prosecution's objections, though relevant for trial, do not constitute sufficient grounds for refusal of bail at this stage.

6. For the reasons mentioned above, the applicant/accused Muhammad Shakeel S/o Muhammad Sain is admitted to post-arrest bail subject to furnishing a solvent surety in the sum of Rs.2,00,000/- (Two Hundred Thousand Rupees) with a P.R. bond in the like amount to the satisfaction of the trial Court. The observations made in this order are tentative in nature and shall not prejudice the case at trial. These are the reasons for short Order dated: 21-03-2025.

JUDGE