

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.656 of 2025

Applicant : Mussarat Bibi
Through Chaudhary Muhammad
Rasheed, Advocate

Complainant : Nusrat Mufti, through Mr. Muhammad
Asif Bhatti, Advocate.

Respondent : The State
Through Ms. Rahat Ehsan,
Addl. Prosecutor General, Sindh

Date of hearing : 17.03.2025

Date of order : 17.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.105/2025 registered under Section 381 PPC at PS Darakshan, Karachi, after his bail plea has been declined by Xth Additional Sessions Judge, South-Karachi vide order dated 10.03.2025.

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. Per learned counsel for the applicant that the FIR is registered with the delay of 09 days and no plausible explanation has been furnished by the complainant. He further submits that there is no access to the bed room of the complainant as such she has not committed any offence and has falsely been implicated in this case. Lastly, prayed for grant of bail.

4. On the other hand, Mr. Muhammad Asif Bhatti, Advocate files Vakalatnama on behalf of the complainant alongwith application under Section 493 Cr.P.C, taken on record. Learned counsel for the complainant as well as learned Additional Prosecutor General, Sindh vehemently opposed for grant of bail.

5. Heard and perused the record.

6. From the perusal of the record, it reflects that the name of the applicant/accused appeared in the instant FIR with specific role that she was working as a maid in the house of the complainant and allegedly stolen the gold ornament and other articles worth of Rs.3,000,000/- (Rupees Three Million). After registration of the FIR, she has filed pre-arrest bail application before the learned trial Court and after grant of interim pre-arrest bail, she did not join the investigation, as such the recovery could not be effected. Learned counsel for the applicant/accused pleaded malafide on the part of the complaint. At bail stage only tentative assessment is to be made, prima face there is sufficient material available on record to connect the applicant/accused with the commission of the alleged offence. No ill-will, malafide or enmity has been pleaded by the learned counsel for the applicant/accused on the part of the complainant for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others' [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. Accordingly, the instant Bail Application is **dismissed**. The interim pre-arrest bail granted to them vide order dated 13.03.2025 is hereby **recalled**.

9. 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.

Hyder/PA

JUDGE