

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.S- 374 of 2025

Applicant: Abdul Ghaffar through
Mr. Shabbir Ali Bozdar, Advocate

Respondent: State through Aftab Ahmed Shar, APG

Date of hearing: **02.06.2025**

Dated of order: **02.06.2025**

ORDER

Amjad Ali Bohio, J. Abdul Ghaffar, son of Umed Ali Kolachi, seeks post-arrest bail in FIR No. 68/2025 registered at Police Station Mirpur Mathelo under Sections 489-B and 489-C, PPC. His earlier bail application was dismissed by the learned Additional Sessions Judge, Mirpur Mathelo, vide order dated 28.04.2025. Hence, the present application.

2. As per the contents of the FIR, on 01.04.2025 at approximately 1730 hours, HC Muhammad Malook Lund, while on patrol, received spy information that the applicant was allegedly in possession of counterfeit currency notes and was using them to commit fraud at Nursery Bypass, Mirpur Mathelo. Upon arrival at the location, the police party observed the applicant standing at the designated spot. On seeing the police, the applicant attempted to flee but was apprehended. A search of his person allegedly led to the recovery of 79 counterfeit currency notes totaling Rs. 84,000/-. It is further alleged that the applicant was distributing these counterfeit notes to defraud others. Accordingly, an FIR was registered under Sections 489-B and 489-C PPC.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to a dispute over a residential plot with the complainant, HC Muhammad Malook Lund. He further argued that there is an unexplained delay of more than one and a half hours in lodging the FIR, despite the place of incident being approximately 8 kilometers from the police station, raising serious doubts

about the veracity of the prosecution's version. Additionally, the prosecution failed to associate any private person as mashirs despite the incident allegedly occurring in a populated area, which constitutes a significant procedural lapse. Learned counsel emphasized that, at the time of arrest, the applicant was not caught in the act of committing fraud by handing over counterfeit currency to any person. The prosecution case, per the FIR, is based solely on the recovery of counterfeit notes, attracting the application of Section 489-C PPC. He submitted that the said offence carries a maximum punishment of seven years and does not fall within the prohibitory clause of Section 497(1), Cr.P.C. He concluded that the matter requires further inquiry and prayed for grant of bail.

4. Conversely, learned Additional Prosecutor General opposed the bail application, contending that the recovery of a substantial amount of counterfeit currency and the serious nature of the offence justify the continued detention of the applicant.

5. I have heard learned counsel for the applicant and the learned Additional Prosecutor General and have perused the record.

6. The allegations against the applicant revolve around the possession of counterfeit currency, which prima facie attracts Section 489-C PPC. There is no direct evidence on record showing the applicant actively using or distributing counterfeit notes to commit fraud at the spot. The failure to associate private witnesses in a public place inspite the police party had prior intention, the delay in registration of the FIR, and the absence of any overt act of fraud witnessed at the time of arrest, collectively cast doubt on the prosecution's version. It is admitted that at the time of arrest, the applicant was not found handing over or using counterfeit notes in a fraudulent manner. Hence, the essential ingredients of Section 489-B PPC are not clearly established at this stage. The offence under Section 489-C PPC alone, being punishable up to seven years, does not fall within the prohibitory clause of Section 497(1), Cr.P.C. Therefore, the case of the

applicant appears to be one of further inquiry. Reliance is placed on the judgment of the Hon'ble Supreme Court in the case of *Sami Ullah v. The State (2021 SCMR 729)*, wherein bail was granted in similar circumstances due to the need for trial to determine the applicability of Section 489-B PPC.

7. The applicant has remained in custody since his arrest. The investigation appears to be complete and the interim challan has been submitted. Further incarceration would serve no useful purpose.

8. In view of the above, the case against the applicant falls within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C. Accordingly, the applicant is admitted to post-arrest bail subject to furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) and a personal bond in the like amount to the satisfaction of the learned trial Court.

9. It is clarified that the observations made herein are tentative in nature and shall not prejudice the merits of the case at the trial.

10. The instant criminal bail application stands disposed of in the above terms.

11. These are the reasons for the short order dated 02.06.2025.

JUDGE

Naveed Ali