

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-378 of 2025

Applicants: Amjad Shah and 02 others *through* Mr. Noor Ahmed Abbasi, Advocate

Complainant: Asif Ali Shah *through* Mr. Ghulam Sarwar Halepoto, Advocate

Respondent: The State, *through* Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General, Sindh

Date of hearing: 24.7.2025

Date of decision: 24.7.2025

ORDER

Muhammad Jaffer Raza, J.- Through captioned criminal bail application, applicants namely Amjad Shah son of Ghulam Nabi Shah, Adil Shah and Samiullah Shah both sons of Amjad Shah, seek pre-arrest bail in FIR No.110/2025, registered at P.S B-Section, Khairpur, for the offence punishable under Sections 394 PPC. Earlier the applicants approached to the learned Additional Sessions Judge-III, Khairpur for pre-arrest bail but same was dismissed vide order dated 11.04.2025.

2. Learned counsel for the applicants has contended that there is delay of approximately 01 month and 13 days in lodging of the FIR as the alleged incident took place on 31.01.2025 and the FIR was lodged on 11.03.2025. He has further contended that no recovery has been made from the present applicants and even otherwise charge has been framed against the above named applicants on 23.05.2025 and the evidence is being recorded at trial. He has further contended that there is *mala fide* on part of the prosecution as there is personal enmity between the parties. He has further taken the plea of alibi and has invited my attention to the attendance sheet of applicant Adil Shah which shows his attendance at Sukkur IBA University. Further he has invited my attention to a letter available at page 45, which reflects that applicant Syed Samiullah Shah was

employee of Pakistan Navy and on 31.01.2025, applicant Syed Saimullah Shah was serving under 2nd FP Battalion command of Arsalan Shakeel, Lt Pakistan Navy, Divisional Officer on the date of the incident. He has lastly stated that he has earlier joined the investigation and have not misused the concession of bail, therefore, the interim bail granted to them may be confirmed on the same terms.

3. Conversely, learned counsel for the complainant has stated that the incident has been recorded on CCTV and specific role has been assigned to the above noted applicants. He has further stated that mobile phone and cash was stolen from complainant and there are five prosecution witnesses who corroborate the stance taken by the complainant. He has further stated that there is explanation of the delay as he immediately approached the relevant Police Station and upon their failure to lodge the FIR against the present applicant, he filed application under Section 22-A and 22-B Cr.P.C on 10.02.2025 which was allowed vide order dated 06.03.2025. He has therefore, prayed for recalling of the bail to the present applicants.

4. Learned DPG has supported the contentions of the learned counsel for the complainant and has stated that the offence falls within prohibitory clause of Section 497 Cr.P.C and no exceptional circumstances have been raised by the present applicants for concession of the bail to be granted to them. He has further invited my attention to the order dated 11.04.2025 passed by learned Additional Sessions Judge-III, Khairpur in which he has stated that the learned Court has observed that applicants have misused the concession of bail. This in its self, according to learned counsel is ground for recalling of the interim bail to the present applicants.

5. I have heard the learned counsel for the respective parties and perused the record available before me.

6. It is apparent that there is delay of approximately 01 month and 12 days in lodging of the FIR, however, that delay has partially been explained by the learned counsel for the complainant as he filed application under Section 22-A and 22-B

Cr.P.C on 10.12.2025. I have noted the contentions of the learned counsel for the complainant, however, it is noted that even then there is delay of approximately 11 days from the date of the alleged incident. I have further examined the pictures presented by the learned counsel for the complainant of the CCTV cameras in the vicinity. I have carefully examined the said pictures and I cannot identify the present applicants in the said pictures and the same requires deeper appreciation of evidence, which is not permissible at the stage of bail. It is trite law that even offences falling within prohibitory clause of Section 497 Cr.P.C in certain cases, the bail can be granted to the applicants who have raised the plea of alibi. It is also trite law that the plea of alibi if successfully taken at the trial entitle the accused persons to an acquittal. I will not make any observation regarding the above noted plea taken by the applicants and neither will I give any detailed observation on the CCTV footages and pictures which have been placed before me as the same may jeopardize the trial which is already under way. In the above noted circumstances, the case against the applicants call for further inquiry within the meaning of Section 497(2), Cr.P.C.

7. In light of above noted circumstances, it is evident that the applicants have successfully made out their case for confirmation of pre-arrest bail. Accordingly, instant criminal bail application is allowed and the interim pre-arrest bail already granted to applicants is hereby confirmed on the same terms and conditions. However, the trial Court is directed to expedite the matter and conclude the trial within three (03) months from today.

8. Needless to state that the observations made hereinabove are tentative in nature and shall not in any way affect the merits of the case of either party at the trial and / or influence the trial Court at the time of deciding the case.

JUDGE