

IN THE HIGH COURT OF SINDH AT KARACHI

Present

Mr. Justice Dr. Syed Fiaz ul Hassan Shah

Criminal Bail Application No.2212 of 2025

Applicant : Yusra D/o Aurangzeb
through Syed Ghulam Shabbir Shah,
Advocate a/w M/s. Mukesh Kumar Talreja
& Muhammad Bilal, Advocate

Complainant : Muhammad Salik S/o Najam-ul-Hassan
through Muhammad Fahad, Advocate

Respondent : The State
through Mr. Muhammad Noonari, DPG
a/w I.O./SIP Mumtaz Ali

Date of hearing : 01.10.2025

Date of order : 01.10.2025

ORDER

Dr. Syed Fiaz Ul Hassan Shah, J. - Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.678/2025 for offence under Section 395 PPC registered at PS Ferozabad. Her bail plea has been declined by the learned IV-Additional Sessions Judge, Karachi East **[Trial Court]** vide order dated 23.08.2025.

2. The facts are incorporated in the FIR as well as in the impugned Order and do not need to be reproduced for the purposes of deciding the bail application.

3. Learned counsel for the applicant contends that in the present case, doctrine of rule of consistency is fully attracted as two co-accused persons have already been granted bail on the same role assigned by the prosecution. He next contends that only one I-Phone-15 Apple has allegedly shown to be recovered from the possession of the present applicant out of huge

description of stolen properties mentioned in the FIR and its veracity is yet to be determined by the trial Court. He next contends that the learned trial Court has ignored the newly added provision with regard to women and children below the age of 16 years under such statutory, the bail ought to be regulated. He further states that challan has been submitted before the trial Court and the applicant is no more required for the purposes of investigation.

4. On the other hand, I.O. present in Court has stated that accused Noshad is behind the bar as he is the main accused from whose possession, uniform of FIA so also pistol, looted amount of Rs.10 lacs and two mobile phones have been recovered. He admits that the applicant was involved due to riding in REVO vehicle, which was used during robbery; however, two of the family members have been released by him by applying Section 169 Cr.P.C. due to lack of evidence and satisfaction of the I.O. that they are not involved in the commission of offence. Learned Addl. P.G. concedes that the veracity of allegedly recovered I-Phone-15 is yet to be determined.

5. I have considered the arguments of learned counsel for the applicant and learned Addl. P.G. and perused the material with their able assistance.

6. I have considered the contention of learned counsel for the applicant that except allegedly recovered I-Phone-15, nothing has been recovered from the possession of the applicant and no role has been assigned against her while her whole family has been implicated as accused in this case including her mother, brothers and sisters. The two co-accused namely Shahroze and Nimra have already been granted bail by the trial Court through Bail Application No.3159/2025 and the case of the applicant is on the same footing. Further, under the proviso of Section 497(I) Cr.P.C., special treatment for a woman or a child below the age of 16 is provided while deciding the bail application. Besides, the applicant is a first time offender. The challan has been submitted before the trial

Court and the applicant is no more required for the purpose of investigation. It is well-functioned of the trial Court to decide the question of recovered items and its ownership for the purpose of admissibility of the evidence at the time of trial. Further, the prosecution has not shown apprehension that the Applicant if granted bail will damage the case of prosecution or that she would intimidate or influence the prosecution witnesses. Therefore, no fruitful purpose would be achieved while to keep the Applicant into incarceration for an indefinite period of trial. The Prosecution has not highlighted circumstances, which would indicate that any exceptions to the aforesaid rule as per the said case laws apply in the present case. Under the facts and circumstances of the case in hand, when an investigation has been completed and challan has been submitted before the trial Court, the Applicant in case, she is freed, she cannot tamper with the prosecution evidence nor is there any prior conviction and no apprehension of absconding has been expressed at all. It does not appear that the Applicant's incarceration would serve the cause of justice.

7. This principle has been consistently recognized and developed by the Superior Courts of Pakistan, which have emphasized the doctrine of *tentative assessment*—a judicial tool that enables courts to evaluate the sufficiency of material available at the bail stage without delving into conclusive findings. Each case must be assessed independently, with due regard to its peculiar facts and circumstances.

8. Upon conducting a tentative assessment of the available material and examining the statutory framework, it is evident that the alleged offence does not attract the prohibitory clause of Section 497 of the Criminal Procedure Code. In such circumstances, the considerations for grant of bail are to be governed by the settled principles of law and the exercise of judicial discretion. It is a well-established principle that where the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., the grant of bail becomes a rule and its refusal an exception. This legal position has been consistently affirmed by the Hon'ble Supreme Court of Pakistan in

Tariq Bashir and Others v. The State (PLD 1995 SC 34) and Muhammad Tanvir v. The State (PLD 2017 SC 733).

9. In view of the above, instant bail application is allowed. Accordingly, **applicant Yusra D/o Aurangzeb** is granted post-arrest bail subject to furnishing solvent surety in the sum of Rs.500,000/- [rupees five lacs] and P.R. bond in the like amount to the satisfaction of the learned trial Court.

10. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the trial Court, which shall decide the case strictly on its merits and in accordance with law.

JUDGE

Kamran/PS