

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.758 of 2025

Ghulam Murtaza and two others.....Applicants/Accused

Versus

The State.....Respondent

Date of Hearing : 20.10.2025

Date of Order : 20.10.2025

For the Applicant : Mr. Zahoor Ahmed Khan, Advocate.

For the complainant : Mr. Ali Gohar Masroof, Advocate.

For the State : Ms. Rubina Qadir, D.P.G a/w
PI/I.O Rasheed Ahmed, P.S
Peerabad.

ORDER

TASNEEM SULTANA, J: Through this criminal bail before arrest application, the applicants seek concession of pre-arrest bail in Crime No. 45 of 2025 registered at Police Station Peerabad, Karachi West, under Sections 506-B, 406, 504, 342, 420, 468, 471 and 34 PPC, after rejection of their bail plea by the learned Additional Sessions Judge -XI, Karachi ,West vide order dated 19.03.2025.

1. Brief facts of the prosecution case as narrated in the FIR are that the complainant, who deals in property business, alleged that the applicant Kamran Shah used to visit his office and along with his partner Shahid Mukhtiar entered into an agreement dated 15-03-2023 relating to a property transaction in the name of applicant Ghulam Murtaza. It is alleged that an amount of Rs.650,0000, was received by the applicants in cash in different installments for execution of the agreement, but the documents later turned out to be bogus. Upon demand for refund, the complainant claimed that the applicants detained him for a few hours, threatened him at pistol point, and subsequently sent threatening messages through WhatsApp hence ,this FIR pursuant to order passed by court No. XI ADJ Karachi West in Criminal petition No.269/25.

2. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to

malafide intention and ulterior motive; that the FIR itself discloses a purely civil dispute arising out of a contractual transaction; that the complainant himself admitted execution of an agreement dated 15-03-2023; that no independent witness of alleged detention or threats has been produced; that there is a delay of almost two years in lodging the FIR which remains unexplained; that the allegations of forged documents which can only be determined after evidence at trial; and that the offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C., therefore the rule of bail applies and refusal is an exception.

3. Conversely, learned DPG assisted by the counsel for complainant opposed the grant of bail contending that the accused persons have received a huge amount from the complainant and prepared forged documents of land revenue record, which after verification from the concerned Mukhtiarkar were found false; that the applicants' role is specific and they are not entitled to pre-arrest bail.

4. It appears from the record that the dispute between the parties stems from a property agreement which is admitted by the complainant himself. Whether the documents executed were genuine or forged and whether there existed dishonest intention from inception are questions requiring determination at trial on the basis of evidence. Prima facie, the allegations are interlinked with a civil transaction and the element of criminal intent, if any, can only be assessed after recording of evidence. The verification report of the Mukhtiarkar, though mentioning absence of relevant entries, by itself does not establish mens rea or the fraudulent intention attributed to the applicants at this stage. The alleged illegal confinement and threats also appear doubtful as no independent or supporting material has been produced. The FIR was lodged after an unexplained delay of almost two years which, at this preliminary stage, makes the prosecution version questionable.

5. It thus reflects, on tentative assessment, that the case of the applicants falls within the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C. In case titled "*Syed Aman Ullah Shah v. The State and another*" reported as *PLD 1996 SC 241*, the Apex Court has held as follows:-

“So whenever reasonable doubt arises with regard to the participation of an accused person in the crime or about the truth/probability of the prosecution case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail than in the jail, during the trial.”

6. Accordingly, the interim pre-arrest bail granted earlier to the applicants is hereby confirmed on the same terms and conditions.

7. It is, however, clarified that the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial.

JUDGE

Ayaz Gul