

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.1332 of 2025**

Zohaib Raza Pathan son of Irshad Ahmed Pathan..Applicant/Accused

Versus

The State.....Respondent

*Date of Hearing* : 27.10.2025

*Date of Short Order* : 27.10.2025

For the Applicant : Mr. Ameer Bux Chandio, Advocate.

For the complainant : None present.

For the State : Mr. Muhammad Noonari, D.P.G.

### **ORDER**

**TASNEEM SULTANA, J:** Through this criminal bail before arrest application, the applicant Zohaib Raza Pathan son of Irshad Ahmed Pathan seeks pre-arrest bail in Crime No.624 of 2025 registered at Police Station Sachal, Karachi, under Sections 420/406/34 PPC. After his bail plea was declined by the learned IInd Additional Sessions Judge, Malir Karachi vide order dated 19.05.2025.

2. The facts of the prosecution case are that the complainant Muhammad Waseem S/o Maqsood Ahmed, who is engaged in rent-a-car business, alleged that on 27.03.2025 three persons namely Agha Zohaib Pathan, Farrukh Ahmed S/o Fareed Ahmed, and Bashir Jamali approached him at Makhdoom Bilawal Village, Scheme-33 and obtained on rent his Toyota Corolla bearing registration No. LEB-4759, engine No. Y-084564 and chassis No. NZE-140-204736 on daily rent of Rs.4,000/- for ten days. It is alleged that after taking delivery of the vehicle, the said persons remained in contact only for one day, thereafter their mobile phones were found switched off and the vehicle was not returned. Hence this FIR.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to malafide intention and ulterior motive; that there is a delay of 24 days in lodging of FIR; that no direct role is assigned the applicant in the FIR; that the agreement was with one Farrukh Ahmed and not with the applicant; that the co-accused are on bail and their bail was confirmed by the

trial Court; that the alleged offence does not fall within the prohibitory clause of Section-497(2) Cr.P.C.; that in view of the facts and circumstances of the case, this is a fit case for further inquiry, therefore the rule of bail applies and refusal is an exception.

4. Conversely, learned DPG opposed the grant of bail contending that the accused is nominated in the FIR; that the applicant has taken a car on rent basis and never returned the same to the complainant; that the applicant's role is specific and he is not entitled to confirmation of bail.

5. Heard. Record perused.

6. It is an admitted position that the FIR was lodged after a considerable delay of about twenty-four days, for which no plausible or convincing explanation has been furnished by the complainant. Such prolonged silence on the part of the complainant, in the given circumstances, prima facie renders the prosecution story doubtful and suggests the possibility of due deliberation and consultation before the law was set into motion.

7. From a tentative assessment of the material available on record, it appears that the dispute essentially arises out of a rent-a-car transaction between the parties. The complainant, who is admittedly engaged in the business of providing vehicles on rent, has alleged that he had rented out his Toyota Corolla to the nominated persons for ten days on payment of daily rent; however, the vehicle was not returned and the accused persons became untraceable. The transaction, on its face, is founded upon a contractual arrangement voluntarily entered into by the complainant himself, and the allegations, even if taken at their face value, primarily disclose a civil liability rather than any criminal intent of deception at the inception of the deal.

8. It further appears from the record that the alleged rent agreement was executed between the complainant and co-accused Farrukh Ahmed, whereas the present applicant is not shown as a signatory to such agreement. The allegation against the applicant is of being a guarantor or having accompanied the co-accused at the time of renting the vehicle, which prima facie does not constitute direct entrustment of property. Hence, the applicability of Sections 406 and 420 PPC to the applicant's role requires further inquiry as

envisaged under Section 497(2) Cr.P.C. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail as of right. Reliance is placed on the case of *Salman Mushtaq & others v. The State through P.G Punjab and another* (2024 SCMR 14).

6. ....While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

9. The offences alleged do not fall within the prohibitory clause of Section 497 Cr.P.C. The principle laid down by the Hon'ble Supreme Court of Pakistan in cases reported as *Tariq Bashir and 5 others v. The State* (PLD 1995 SC 34) is that in offences not falling within the prohibitory clause, grant of bail is a rule and refusal an exception, particularly when no exceptional circumstances are pointed out by the prosecution.

10. Moreover, the applicant has been enjoying interim pre-arrest bail since 22.05.2025 and has neither misused the concession of bail nor shown any tendency to abscond or interfere with the prosecution evidence. His continuous attendance before the Court indicates that his custody is not required for any further investigation.

11. In view of the above circumstances, a prima facie case for further inquiry within the meaning of Section 497(2) Cr.P.C. has been made out. Accordingly, by a short order dated 27.10.2025, interim pre-arrest bail granted to the applicant vide order dated 22.05.2025 was confirmed on the same terms and conditions, and these are the reasons for the same.

12. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul