

THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 225 of 2025

Applicant : Usman @ Arman
through Mr. Iftikhar Ali Larik,
advocate.

Respondent : The State
Mr. Mumtaz Ali Shah,
Assistant Prosecutor General a/w
A.S.I. Muhammad Rasheed, P.S.
Shah Faisal.

Complainant : In person

Date of hearing : 7th March, 2025

Date of Order : 7th March, 2025

ORDER

Jan Ali Junejo, J.-- The present Criminal Bail Application has been filed on behalf of the Applicant/Accused, who is seeking post-arrest bail in connection with a case stemming from FIR No.525 of 2024, registered at P.S. Shah Faisal Colony, Karachi, under Sections 397/34, P.P.C. The Applicant/Accused initially approached the learned Sessions Court by filing Bail Application No.209 of 2025, which was subsequently dismissed by the Court of the learned IIIrd Additional Sessions Judge, Karachi-East, vide Order dated 17-01-2025.

2. The facts relevant to the present criminal bail application are as follows:

“The complainant, Muhammad Jibrán Azam, reported to Shah Faisal Colony Police Station, Karachi, that on

October 29, 2024, at around 2:45 PM, while sitting outside his house, two unidentified individuals on a motorcycle approached him. One of them brandished a pistol and snatched his OnePlus mobile phone. Jibran managed to catch the pillion rider while the other suspect fled. His cousin, Muhammad Huzaifa, arrived in response to the commotion, and Jibran called the police. ASI Abdul Rasheed arrived and arrested the suspect, who identified himself as Usman @ Arman, son of Muhammad Shahzad, and named the absconding accomplice as Sufiyan @ Sofi Bacha. The police recovered Jibran's mobile phone, a TT pistol with two live rounds, and Rs. 200 from Usman, sealing the items as evidence".

3. The learned counsel for the Applicant has argued that the applicant is innocent and has been falsely implicated in a fabricated case due to ulterior motives of the police, making the prosecution's version doubtful and requiring further inquiry. He further contends that the applicant is a laborer engaged in sofa-making and was unlawfully stopped and searched by the police, who falsely booked him in the case after he refused to pay a bribe. He also contends that the investigation has been completed, and the charge sheet has been submitted, entitling the applicant to bail. He further contends that the delay in lodging the FIR and inconsistencies in the complainant's statements raise doubts about the prosecution's case. He argues that nothing was recovered from the accused at the time of arrest and that the alleged recovery has been foisted upon him. He further argues that the accused has been in custody since October 2024 without sufficient evidence on record. He

contends that the complainant failed to specify the accused's name or role, making the case fit for further inquiry. He also contends that no private witness has been produced, violating Section 103 Cr.P.C. Lastly, he argues that the alleged offense carries a minimum sentence of seven years, falling outside the prohibitory clause of Section 497 Cr.P.C., making bail the rule and refusal the exception. It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to grant post-arrest bail to the applicant in the interest of justice.

4. The learned Additional Prosecutor General (APG) strongly opposed the bail application, contending that the applicant has been nominated in a serious offense, and sufficient evidence is available to connect him to the crime. He further contends that the delay in lodging the FIR has been reasonably explained and does not vitiate the prosecution's case. He also contends that the complainant's statement is consistent, and the accused was apprehended at the scene, strengthening the case against him. He further contends that the recovery of the robbed mobile phone and weapon from the accused's possession confirms his involvement. He argues that the offense is grave and non-bailable, and granting bail at this stage would hinder the course of justice. He further argues that the accused's continued detention is necessary to prevent tampering with evidence and to ensure the arrest of the co-accused. Lastly, he contends that the nature of the offense and its impact on public safety warrant the dismissal of the bail application.

5. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Additional Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. Upon a thorough and meticulous scrutiny of the case record, it is evident that the Applicant was arrested at the spot with the robbed article and an illicit weapon. The recovery is duly supported by independent witnesses. The available material sufficiently connects the Applicant with the commission of the offense, which falls within the prohibitory clause of Section 497, Cr.P.C. The Applicant has failed to establish grounds for further inquiry. The offence charged against the applicant under Sections 397, P.P.C. is of a heinous nature, carrying severe punishment, which necessitates cautious consideration before granting bail. The learned counsel for the applicant has argued that the case does not fall within the prohibitory clause of Section 497(1) Cr.P.C., warranting bail as a matter of right. However, the Hon'ble Supreme Court of Pakistan in *Shameel Ahmed v. The State (2009 SCMR 174)* has categorically held that bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in *Afzaal Ahmed v. The State (2003 SCMR 573)*, it was held that the mere fact that an offense does not fall within the prohibitory clause does not automatically render it bailable, and the Court retains discretion in granting bail based on established legal principles.

6. Considering the strong prima facie evidence against the applicant, including his arrest at the spot red-handed, the recovery of robbed articles, and the presence of corroborative independent witnesses testimony, I do not find any reasonable grounds to treat this case as one warranting “further inquiry” under Section 497(2) Cr.P.C. The seriousness of the allegations and the potential punishment also negate any presumption in favor of bail. Thus, the Applicant is not entitled for grant of bail at this stage.

7. In light of the foregoing reasons, the present bail application filed on behalf of the Applicant, being devoid of substantive merit, is hereby dismissed. It is further clarified that the observations made herein are confined solely to the adjudication of this bail application and shall not prejudice or influence the merits of the case during the trial proceedings.

JUDGE