

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**Criminal Bail Application No.S-239 of 2025**

Applicant                      Javed son of Younis by caste Qazi  
Through Mr. Muhammad Naeem, Advocate.

Respondent:                  The State  
Through Ms. Rameshan Oad, A.P.G.

Date of hearing:              26.03.2025  
Date of order:                26.03.2025

## **ORDER**

**Syed Fiaz ul Hassan Shah, J:** Through instant bail application, above named applicant seeks his admission to post arrest bail in Crime No.297 of 2024 registered under sections 381-A PPC, with P.S Market. After the arrest applicant preferred his bail plea before the Court of 1<sup>st</sup> Additional Sessions Judge, Hyderabad/Model Criminal Trial Court vide Criminal Bail Application No.3600 of 2024 (Re-Javeed and another Vs. The State) and same was dismissed vide order dated 09.12.2024; hence, instant bail application has been maintained.

2.        Since the facts of prosecution case are already mentioned in F.I.R as well as impugned order passed by the Additional Sessions Judge-II/GBV/Anti-Rape Mirpurkhas, therefore, there is no need to reproduce the same.

3.        It is inter-alia contended by the counsel for applicant that applicant/accused is innocent and has falsely been involved in this case; that the wife of applicant/accused was admitted in civil hospital Hyderabad in serious condition and there is no family member to lookafter her; that complainant has already filed 'no objection' affidavit in the bail of applicant/accused before the learned trial Court but the same was not considered the facts and dismissed the bail application of applicant; that the engine number and the subject motorcycle number are quite different as mentioned in FIR by the complainant and the memo of recovery, which creates highly doubt and requires further probe; that the alleged section does not fall within the prohibitory clause of section 497 Cr.P.C and in such like cases the grant of bail is a rule and refusal is an exception; that the property in question has not been recovered from the applicant/accused before or after the investigation conducted by the police nor any preliminary name in FIR is included. He lastly prayed for justice.

4. On the other hand, learned APG vehemently opposed for grant of bail and submits that applicant/accused is also involved in other cases and prompt recovery has been made; that the evidence in shape of CCTV camera installed at the place of occurrence shows that he committed the offence with which he is charged therefore, he is not entitled for concession of bail.

5. I have heard the learned counsel for parties and perused the record.

6. Perusal of record it demonstrates that the subject motorcycle allegedly stolen was recovered on the pointation of complainant standing at Allah Wala Chowk, but despite a sufficient time available with police to associate private and independent witnesses for the same they remained failed, which is a clear violation of the compliance of section 103 Cr.P.C and too requires probe when it was recovered on pointation of complainant. Besides, the engine number and the subject motorcycle number are quite different as mentioned in FIR by the complainant and the memo of recovery, which creates doubt and requires further inquiry. Besides, the section does not fall within the prohibitory clause of section 497 Cr.P.C and in such like cases the grant of bail is a rule and refusal is an exception. Per record, complainant has already filed 'no objection' affidavit for grant of bail to applicant/accused before the learned trial Court. Further the challan has been submitted before the Trial Court and applicant is no more required for investigation. It is not case of the prosecution that applicant if released on bail will temper or destroy the evidence or any apprehension to threat the prosecutions' witnesses. In view of the above, the learned counsel for the applicant has made out a case for grant of bail, therefore, the bail application is **allowed**. Consequently, the applicant is granted concession of post arrest bail subject to furnishing his solvent surety in sum of Rs.50,000/- and P.R bonds in the like amount, to the satisfaction of Trial Court.

7. Needless to say that any finding given or the observations recorded herein-above, it is only for the purpose of deciding this bail application, which will not affect the merits of case before the Trial Court in any manner and the Trial Court will try the case without being influenced from any observation.

**J U D G E**