

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-133 of 2025.

Applicant: Arshad Ali Awan son of Ghulam Muhammad Awan.
Through Mr. Abdul Azeem Junejo, 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.579 of 2024 registered under sections 436, 504, 34 PPC, with P.S Kotri. After the arrest applicant preferred his bail plea before the Court of Additional Sessions Judge-I, Kotri vide Criminal Bail Application No.86 of 2024 (Re-Arshad Ali Vs. The State) and same was dismissed vide order dated 31.01.2025; hence, instant bail application has been maintained.

2. Since the facts of prosecution case are already mentioned in F.I.R as well as memo of instant bail application, 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 by the complainant; that applicant/accused and complainant are husband and wife and due to some altercation took place between them and in retaliation of the same complainant lodged false FIR; that there is one day delay in lodgment of FIR without plausible explanation hence, due deliberation and consultation cannot be ruled out; that offence does not fall within the ambit of prohibitory clause of section 497 Cr.P.C; that challan has been submitted before the Trial Court, the applicant is no more required for investigation and there is no apprehension that the applicant is attempting to temper or destroy the prosecution's evidence.

4. On the other hand, complainant present in person through learned APG opposed the bail application on the ground that her husband wants to sell her own inherited property forcibly and giving threats of dire-consequences and she reiterated the occurrence so took place and stated that she has great apprehension to her life if, the

applicant come out from prison on bail, therefore, at this stage he is not entitled for concession of bail in his favour.

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

6. It is an admitted position that applicant and the complainant are husband and wife and still living matrimonial with exception of present incident. On a query, the complainant has admitted that she has not filed any proceedings such as dissolution of marriage etc nor yet the applicant has given her Talak, which prima facie demonstrates that allegation of the complainant in nature of domestic altercation without motive which require further inquiry. If, for the sake of presumption the complainant facing serious threats and an occurrence of setting on fire has been occurred, surprisingly she has not approached to the family Court for dissolution of her marriage therefore, in my tentative assessment this case requires for further inquiry. Furthermore, offence with which the applicant is charged 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. 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 my tentative assessment, 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.40,000/- and P.R bond in the like amount, to the satisfaction of Trial Court and these are the reasons of short order dated 26.03.2025.

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