

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.695 of 2025

Applicant : Shaharyar son of Attiq-ur-Rehman
through Mr. Raza Mukhtiar Javahery Advocate

Respondent : The State
through Ms. Seema Zaidi Addl. P.G. Sindh.

Date of hearing : 08.04.2025

Date of order : 10.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Shaharyar seeks post-arrest bail in a case bearing crime No.18/2025, offence u/s 381 PPC of P.S. Samanabad. His earlier bail application was dismissed by the learned Additional Sessions Judge-III, Karachi Central, vide order dated 07.03.2025.

2. As per the FIR, on 12.01.2025, the complainant parked his motorcycle, bearing Registration No. KKE-2458 maker Rameez 70cc in the designated parking area. Upon returning the following morning, he discovered the motorcycle was missing. Consequent upon; case was registered inter-alia on above facts.

3. Learned counsel argued that the applicant is innocent and has been falsely implicated in this case. He submitted that the applicant was originally arrested in Crime No. 79/2025 of P.S. Taimoria u/s 9(c) of the Control of Narcotic Substances Act, 1997, during which the motorcycle in question was allegedly recovered from him. The present case was then registered against him based on that recovery. It was further submitted that the applicant has already been granted bail in the narcotics case. The counsel emphasized that there is no direct evidence showing that the applicant was in conscious or knowing possession of the stolen motorcycle, and no eyewitness has witnessed the alleged theft, thereby making the case one requiring further inquiry.

4. Conversely, the learned APG opposed the bail, arguing that the motorcycle was recovered from the applicant during his arrest in another

case, which prima facie connects him to the offence of theft. The recovery of stolen property, according to the prosecution, is a significant circumstantial evidence indicating his involvement. The offence under Section 381-A PPC is non-bailable and carries serious punishment, and granting bail at this stage may disrupt the ongoing investigation.

5. Admittedly, the applicant was not apprehended at the scene of the incident, nor is there any eyewitness who directly observed the theft. The prosecution's case is based solely on the recovery of the motorcycle during his arrest in an unrelated matter. No definitive evidence has been presented to prove that the applicant knew the motorcycle was stolen or had the intent necessary to commit theft. Accordingly, the facts of the case more aptly fall within the ambit of Section 411 PPC, which carries a maximum sentence of three years and does not fall within the prohibitory clause of Section 497(1) Cr.P.C.

7. The applicability of Section 381-A PPC and the precise role of the applicant in the alleged theft remain questions requiring further investigation. Furthermore, the applicant has already secured bail in the related narcotics case involving the recovery of the same motorcycle. The issue of guilt or innocence will be determined at trial. Under these circumstances, the case falls within the scope of further inquiry as envisaged by Section 497(II) Cr.P.C.

8. The Hon'ble Supreme Court in Tariq Bashir v. The State (PLD 1995 SC 34) has held that for offences not falling within the prohibitory clause of Section 497 Cr.P.C., the grant of bail is the rule and refusal is the exception. Similarly, in Muhammad Tanveer v. The State (PLD 2017 SC 733), the Apex Court has discouraged the denial of bail on speculative or weak grounds.

9. For the foregoing reasons, the applicant has made out a case for post-arrest bail. He is accordingly admitted to bail subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) along with a personal bond in the same amount to the satisfaction of the learned trial Court.

J U D G E