

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.754 of 2025

Applicant : Irfan-ur-Rehman son of Abdul Rehman
through Mr. Muhammad Farooq, Advocate

Respondent : The State
Ms. Hina, Asst. P. G. Sindh.

Date of hearing : 07.04.2025

Date of order : 17.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J -- The applicant, Irfan-ur-Rehman, seeks post-arrest bail in a case bearing crime No. 214/2024, offence u/s 379/411 PPC of P.S. City Court. His bail pleas were declined by the Court of learned Judicial Magistrate XXVth Karachi South and learned Additional Sessions Judge-XI, Karachi South, vide orders dated 14.11.2024 and 21.01.2025 respectively.

2. According to prosecution's case, on 03.09.2024 at about 0800 hours, the complainant Fida Hussain being COC of the Court on resuming duty found the cooling pipes of the chamber's AC cut off and missing. Upon which, he informed the Presiding Officer and subsequently to learned District & Sessions Judge. Consequent upon; case was registered inter-alia on above facts.

3. Learned counsel contended that the applicant has been falsely implicated in the present case and that his name does not appear in the FIR. It was further argued that the applicant was subsequently arrested on the basis of a statement made by another chowkidar, which does not constitute substantive evidence in the absence of corroboration. Learned counsel emphasized that no recovery has been affected from the applicant, nor is there any confessional statement recorded under Section 164 Cr.P.C before the Magistrate. It was also submitted that the applicant has been behind bars since November 2024, yet no meaningful progress has been made in the trial, thereby attracting the principle that bail should not be withheld as a form of punishment. Learned counsel placed reliance on *2017 SCMR 733* to argue that mere suspicion or indirect implication is not sufficient to deny bail, particularly where the prosecution case lacks direct evidence.

4. Conversely, learned APG opposed the grant of bail on the ground that the allegation pertains to theft of Government property from within court premises, which is a serious matter involving breach of public trust and security. He submitted that the applicant has been implicated during investigation on the basis of statements of witnesses, and the matter is still under trial. He further argued that the gravity of the offence and its impact on public institutions should not be lightly disregarded and prayed for dismissal of the bail application.

5. The record reveals that the applicant is not nominated in the FIR, and there is no eyewitness to the alleged occurrence. The incident, according to the complainant, is said to have occurred on 03.09.2024, while the FIR was lodged on 19.09.2024, with no explanation provided for the delay in its registration. Moreover, the applicant was arrested on 09.11.2024 following the directions of one chowkidar of the Karachi Bar Association, who indicated that the applicant was involved in *tampering with electricity wires*. Subsequently, on 11.11.2024, the recovery was made from Abdul Manan, who pointed out the godown from where the alleged recovery was affected. While there are allegations of theft, it is crucial to note that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C, which would otherwise preclude the grant of bail in certain cases. Moreover, the applicant does not have any previous criminal antecedents, and as such, qualifies for statutory leniency under the law. His continued incarceration in these circumstances appears to be of no substantial benefit to the prosecution, especially when considering that no direct evidence or substantial material has been brought forth to substantiate the charges at this stage.

6. In light of the case law reported as *2017 SCMR 733*, it has been held that if the alleged offence does not fall within the prohibitory clause and the evidence against the accused is of a questionable nature, bail should be granted. The evidentiary value of the arrest and recovery affected on 09.11.2024 will require deeper evaluation at the trial stage, where the learned trial Court will appreciate the evidence in its entirety.

7. Therefore, considering the circumstances, the nature of the charges, and the applicant's lack of prior criminal history, I find it appropriate to grant bail to the applicant. Accordingly, the bail is granted subject to the applicant furnishing a solvent surety in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) and a personal bond in the like amount to the satisfaction of the learned trial Court.

J U D G E