

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No. 981 of 2025

Applicant : Syed Ahsan Rafaqat Munawar,  
Through Mr. Naveed Ahmed Khan, Advocate

Respondent : The State  
through Ms. Rahat Ehsan, Addl. P.G. a/w SP  
Dr. Anam, SP Investigation Central Karachi  
and I.O SIP Mehmood Ahmed of PS Gabol  
Town.

Date of hearing : 14.05.2025

Date of order : 19.05.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Syed Ahsan Rafaqat Munawar seeks post-arrest bail in a case bearing crime No. 125/2024 registered at P.S. F.B. Industrial Area, Karachi, offence under Sections 381, 109, 411, and 34 PPC. His earlier bail plea was declined by the Court of learned Judicial Magistrate-XV Karachi Central and subsequently by the learned IInd Additional Sessions Judge, Karachi (Central) vide orders dated 27.03.2025 and 08.04.2025 respectively.

2. According to the prosecution, the applicant, employed as a Manager at Blue Bird Embroidery Factory, was apprehended on 07.09.2024 by the complainant and another employee while allegedly stealing 50 embroidered suits in a plastic bag. The FIR further claims that incidents of theft had been occurring over the past 7/8 months, and that the applicant was handed over to police custody along with the alleged stolen goods. The applicant has remained in judicial custody since his arrest.

3. Learned counsel contended that the applicant has been falsely implicated in the instant case due to mala fides and personal enmity, as he had been serving as Factory Manager in Blue Bird Embroidery for over two years without any prior complaint or adverse record. It was argued that although the FIR alleges theft of embroidered suits over the past 7 to 8 months, there is no direct evidence connecting the applicant to the earlier alleged thefts. The applicant was apprehended only with a single bag allegedly containing 50 suits, without any recovery memo showing connection with the prior missing stock. It was argued that despite the arrest on 07.09.2024, the charge sheet was submitted belatedly on

30.11.2024, after more than 50 days, which suggests a lack of concrete evidence and weak prosecution. It was pointed out that no independent witness from the public was associated at the time of alleged apprehension and recovery, which creates doubt in the prosecution's version. It was argued that the case against the applicant, at best, calls for further inquiry within the meaning of Section 497(2) Cr.P.C., as the prosecution's claim of ongoing theft spanning months is not substantiated with inventory records or internal inquiry reports. He further emphasized that the complainant did not lodge any report earlier despite alleging repeated losses over several months, and even on the day of incident did not call the police to the scene, instead brought the applicant to the police station themselves, raising doubts over the genuineness of the FIR. He further argues that one of the co-accused is already on bail in the same case granted by the learned IInd Additional Sessions Judge, which entitles the present applicant to claim parity. He also argued that the applicant has remained behind bars since 07.09.2024, and despite framing of charge on 30.11.2024, the trial has not proceeded meaningfully due to non-cooperation of the complainant in recording evidence. Lastly, the learned counsel submitted that Section 381 PPC does not fall within the prohibitory clause of Section 497 Cr.P.C., and bail is the rule in such cases.

4. Conversely, learned Additional Prosecutor General opposed the grant of bail and submitted that the applicant was caught red-handed while attempting to steal 50 embroidered suits from the factory premises, and the recovery was witnessed by the complainant and another factory employee. The prosecution has collected sufficient incriminating material against the applicant, including the recovery memo, statements of witnesses under Section 161 Cr.P.C, which links the applicant to the alleged thefts. The applicant being the Factory Manager had custody and access to inventory, and his position of trust was misused to commit theft repeatedly, thereby attracting a higher degree of culpability. The FIR itself shows that theft was ongoing over several months, and the apprehension of the applicant was the culmination of internal surveillance, indicating premeditated criminal conduct. The charge has already been framed; hence, the applicant's continued detention is necessary to ensure attendance and prevent tampering with prosecution witnesses, many of whom were his subordinates. The applicant's multiple bail applications have been dismissed by courts below, including the Sessions Court and Magistrate Court, after full consideration of the material available on record. No new ground has been raised. The co-accused admitted to bail

was allegedly a receiver of stolen goods under Section 411 PPC, which stands on a different footing than the principal offender under Section 381 PPC. Therefore, the rule of parity is not attracted.

5. In light of the above-discussed facts and legal analysis, it is apparent that the case against the accused rests predominantly on unsubstantiated allegations of theft, which lack the necessary corroborative evidence, especially in the form of CCTV footage, inventory records, or any other material evidence. The complainant, operating a prominent embroidery factory, has failed to establish a reasonable security surveillance system, which would have been a basic and essential precaution for a business of such scale. The absence of any documentary proof, coupled with the lack of significant material evidence to substantiate the alleged thefts over the course of several months, casts considerable doubt on the allegations.

6. Furthermore, the offence under Section 381 PPC, carrying a maximum sentence of seven years, does not fall within the prohibitory clause of Section 497(1) Cr.P.C., thus, the grant of bail is the rule, and refusal should only be considered in exceptional circumstances that have not been demonstrated in this case. The principles laid down by the Hon'ble Supreme Court in *Tanveer Ahmed v. The State* (2017 SCMR 733), wherein it strongly condemned the routine rejection of bail in non-prohibitory offences, are directly applicable here. There is no compelling reason to deprive the accused of bail, as no extraordinary circumstances have been established to justify such a decision.

7. In view of the above, the bail application is hereby allowed, and the accused is entitled to be released on bail, subject to the satisfaction of the surety in sum of Rs.100,000/- (Rupees One Hundred Thousand Only) to the satisfaction of the learned trial court.

8. Needless to mention, the observations made hereinabove are tentative in nature and shall not influence the trial Court at the stage of deciding the case on merits.

**JUDGE**