

**IN THE HIGH COURT OF SINDH CIRCUIT COURT AT
HYDERABAD**

Criminal Bail Application No.S-859 of 2025

Applicant : Khadim Hussain son of Rajab Ali
through Mr. Ishrat Ali Lhoar, Advocate

Respondent : The State through Ms. Sana Memon,
Assistant Prosecutor General, Sindh

Date of Hearing : 30.09.2025

Date of Order : 30.09.2025

ORDER

Jan Ali Junejo, J.- This order shall dispose of the instant Criminal Bail Application filed under Section 497 of the Code of Criminal Procedure, 1898, seeking post-arrest bail for the applicant, Khadim Hussain, in Crime No. 02 of 2025, registered under Sections 417, 420, 467, 468, 471, 34 of the Pakistan Penal Code read with Section 5(2) of the Prevention of Corruption Act, 1947 (II of 1947), at Police Station Anti-Corruption Establishment (ACE), Hyderabad. The applicant's previous bail application was dismissed on merits by the learned Special Judge Anti-Corruption (Provincial), Hyderabad, vide order dated 31.07.2025, leading to the present application before this Court.

2. The factual matrix of the case, as emanating from the First Information Report (FIR), is that the applicant, a contractual Dispatch Rider with the Hyderabad Development Authority (HDA), is alleged to have been involved in the unauthorized service of forged official notices to various private institutions, including Mother Montessori Cambridge School and Saira Medical Store. The FIR alleges that these acts were committed for ulterior motives and personal illegal gains, thereby tarnishing the image of the HDA. The registration of the FIR followed an enquiry initiated on a complaint from the Director General of HDA.

3. Mr. Ishrat Ali Lohar, learned counsel for the applicant, fervently contended that the prosecution's case is built on a foundation of inherent

improbability and lacks any trustworthy, independent corroboration. He argued that the FIR is fatally vague, omitting specific dates, times, and particulars of the alleged illegal acts, and notably fails to allege any direct monetary gain or bribe accepted by the applicant. He emphasized that the applicant was a mere Dispatch Rider, performing the ministerial act of serving notices as per his duties and instructions from superiors, and that no departmental inquiry was ever conducted to ascertain the facts. He highlighted critical lapses in the investigation, specifically the failure to send the alleged forged notices for forensic analysis by a handwriting expert, which severs any credible link between the applicant and the creation of the documents. Further, he pleaded that the applicant is a victim of a malicious departmental vendetta, targeted because his brother, a Chief Draftsman in the HDA, had refused to comply with the illegal demands of superior officers. On a legal plain, he argued that the allegations, even if accepted, do not prima facie attract the stringent provisions of Section 467 PPC, as the notices in question cannot be classified as “valuable securities”, and thus the case falls outside the prohibitory clause of Section 497(1) Cr.P.C. He concluded that the case, at the very least, warrants “further inquiry” into the truth of the accusations, the applicant has deep roots in the community posing no flight risk, and that his continued incarceration would punish his entire family, for whom he is the sole breadwinner. Lastly, the learned counsel prayed for grant of bail.

4. Ms. Sana Memon, learned APG, vehemently opposed the grant of bail, arguing that the applicant, while a Dispatch Rider, acted with clear malafide intent and far beyond the scope of his authority. She contended that he was the central actor in a scheme to serve forged notices, bearing the fabricated signatures of his superiors, to various schools and institutions with the intent to threaten and blackmail them, thereby causing reputational harm to the HDA and undermining public trust. She asserted that the forgery is conclusively established by the statements of HDA officials who have categorically disowned the notices, confirming they were never issued from the official record. She further relied on the identification of the applicant through CCTV footage and the corroborative statements of witnesses from the affected institutions. The learned APG argued that the seriousness of the offences, which involve a brazen abuse of official position and forgery, coupled with the applicant's non-

cooperation in revealing the identity of his accomplices, makes him unsuitable for bail. She submitted that a strong *prima facie* case is made out from the enquiry and evidence collected, that the provisions of law are correctly applied, and that the case does not fall within the ambit of "further inquiry," necessitating the dismissal of the bail application to ensure the integrity of the ongoing investigation and trial.

5. I have given my anxious consideration to the arguments advanced by learned counsel, perused the contents of the FIR, the impugned order of the learned trial Court, and examined the material available on the record. Upon tentative assessment, it appears that the applicant was engaged merely as a contractual Dispatch Rider, whose role was confined to the service or delivery of notices and did not extend to their preparation, drafting, or authorization. The FIR does not attribute to the applicant any specific act of forgery or falsification of signatures. The primary allegation of forgery, therefore, necessitates "further inquiry" to ascertain who was actually responsible for the creation of the forged notices and whether the applicant had knowledge of their alleged fraudulent character. It is also pertinent to note that the case involves, inter alia, Section 467, PPC. On a tentative view, this Court is not persuaded that the impugned "notices" issued by a development authority constitute "valuable securities" within the contemplation of Section 30, PPC, which generally encompasses instruments such as promissory notes, bills of exchange, or documents conferring enforceable rights of monetary value. The alleged notices, on their face, neither create nor extinguish any valuable legal right or entitlement to payment. Consequently, there exists a strong *prima facie* argument that the present case does not attract the statutory prohibition contained in Section 497(1), Cr.P.C. The matter, therefore, calls for deeper examination during the trial when the full evidentiary record is available.

6. It is an admitted position that the entire prosecution case rests upon documentary evidence, all of which is already in the possession of the Anti-Corruption Establishment. Hence, there appears to be no likelihood of tampering with the same in the event the petitioner is admitted to bail. Reliance in this regard is placed upon the case of ***Jabran and another v. The State through Director General FIA and others (2025 SCMR 1099)***, wherein the Honourable Supreme Court of Pakistan was pleased to hold that: "*Furthermore, the prosecution case is based upon documentary evidence only which is already available with FIA authorities and there is*

no apprehension of tampering with the same if the petitioner is admitted to bail". Even if the case were not covered by the prohibition clause, I am convinced that it squarely falls within the ambit of "further inquiry" under Section 497(2) Cr.P.C. The failure to subject the disputed notices to forensic analysis is a significant lapse, which weakens the prosecution's case at this stage. The applicant is a contractual employee and the sole supporter of his family. He is not a previous convict and is not alleged to be a desperate or hardened criminal. His roots in society and the absence of any flight risk are relevant considerations.

7. The learned trial Court, in the impugned order, placed considerable reliance on the fact that the applicant was specifically nominated in the FIR and that his plea of victimization was merely "formal." With profound respect, such an approach appears overly simplistic at the bail stage. The learned trial Court did not sufficiently address the legal question concerning the proper applicability and essential ingredients of Section 467, PPC, and the consequent operation of the prohibition clause under Section 497(1), Cr.P.C. Moreover, it failed to accord due consideration to the plausible plea of "further inquiry" raised by the defence, which warranted a more cautious and tentative evaluation of the available material.

8. For the foregoing reasons, this Court is of the considered view that:

- a) *The case against the applicant is not, at this tentative stage, so conclusively established as to justify his continued detention pending trial.*
- b) *A prima facie case for "further inquiry," within the contemplation of Section 497(2), Cr.P.C., has been made out, warranting deeper examination of the allegations during the course of trial.*
- c) *Accordingly, the applicant has successfully demonstrated grounds for the grant of bail.*

9. Consequently, the Criminal Bail Application is **allowed**. The applicant, Khadim Hussain S/o. Rajab Ali, is admitted to post-arrest bail in connection with Crime No. 02 of 2025, under Sections 417, 420, 467, 468, 471, 34 PPC read with Section 5(2) of the Prevention of Corruption Act, 1947, registered at P.S. ACE Hyderabad, subject to furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) and a Personal Recognizance (P.R.) bond in the like amount to the satisfaction of the learned Trial Court.

10. It is made abundantly clear that the observations made herein are tentative and preliminary in nature, expressed solely for the purpose of deciding this bail application. They shall not, in any manner, influence the learned Trial Court during the final trial of the case, which shall proceed strictly on its own merits and based on the evidence adduced by the prosecution. These are the detailed reasons for the short order announced on 30.09.2025.

JUDGE