IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1783 of 2026

Applicant	:	Muhammad Waqar S/o. Muhammad Islam Through Mr. Muhammad Sharif Dars, advocate
Complainant	:	Muhammad Iqbal Qureshi son of Muhammad Naseeruddin Through: Mr. Muhammad Nadeem Babar, advocate
The State	:	Through Ms. Seema Zaidi, Addl. P. G. Sindh
Date of hearing	:	13.10.2026.
Date of order	:	13.10.2026.

O R D E R

Jan Ali Junejo, J.- Applicant Muhammad Waqar S/o. Muhammad Islam seeks pre-arrest bail in a case bearing Crime No. 85/2026, for offence under section 380/457/34 PPC registered at PS Khokhrapar, Karachi. Prior to this, the applicant had sought the same relief before the learned Additional Sessions Judge-V/MCTC, Karachi East, which was declined vide order dated 09.06.2026. He was admitted to interim pre-arrest bail by this court vide order dated 10.06.2026, now the matter is fixed for confirmation of interim bail or otherwise.

2. The facts of the FIR, lodged by complainant Muhammad Iqbal Qureshi son of Muhammad Naseeruddin on 05.05.2026 at 4:00 p.m. at Police Station Khokhrapar Karachi, are that he resides at the address mentioned in Column No. 2 alongwith his family and is a mechanic by profession, running a shop situated at Dak Khana Road, near Muhammadi Market, Karachi. On Thursday, 30.04.2026, at about 09:00 p.m., after closing his shop, he went home. On Saturday, 02.05.2026, at about 09:30 a.m., when he opened his shop, he found the items and materials inside damaged and, upon checking, discovered that new and old winding, a self, a generator, a radiator, and other items, collectively valued at approximately Rs.400,000/-, were missing. Upon inquiry, he came to know that Waqas his brother Vicky and their accomplices, who worked at a Dhobi Ghat situated behind his shop until midnight had allegedly entered the shop through its roof with the help of a ladder and stolen the aforesaid items. The complainant, therefore alleged that Waqas his brother Vicky, and their accomplices had committed theft at his shop and requested legal action against them. Hence, the present FIR was registered.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case by the

complainant due to mala fide intentions, ulterior motives, and previous enmity, despite having no nexus with the alleged offence. He submits that there is an unexplained delay of about seven days in lodging the FIR, which creates serious doubt regarding the truthfulness of the prosecution story and provides an opportunity for deliberation, consultation, fabrication, and false implication of the applicant. He further contends that the complainant is not an eyewitness to the alleged occurrence and, according to the FIR, nominated the applicant and other accused persons on the basis of information allegedly received upon inquiry. He argues that no eyewitness to the alleged theft was mentioned in the FIR or in the complainant's earlier applications, whereas the witnesses subsequently introduced by the prosecution allegedly claimed that the applicant had borrowed a ladder before the occurrence and that the accused persons were seen loading material into a rickshaw. Learned counsel maintains that none of these witnesses claims to have seen the applicant committing the alleged offence, and that the mere borrowing of a ladder or allegedly loading unidentified material into a rickshaw, without recovery of the stolen articles from the applicant or any other independent corroborative evidence, is insufficient to connect him with the alleged offence. He further submits that the conduct of the alleged witness who purportedly saw the accused persons loading material into a rickshaw is unnatural, as he neither raised an alarm nor immediately informed the complainant or the police, stopped the rickshaw, or noted its registration number, thereby rendering his statement doubtful at this stage. He argues that the subsequent introduction of such witnesses amounts to an improvement in the prosecution case and that their omission from the FIR and earlier applications further weakens the prosecution version. Learned counsel also contends that no documentary evidence has been produced to establish the ownership, existence, or alleged value of the stolen articles, stated to be approximately Rs.400,000/-, and that no CCTV footage, fingerprints, recovery of the alleged ladder, details of the rickshaw, or other scientific or independent evidence has been collected to connect the applicant with the occurrence. He further submits that the alleged entry into the shop through its roof has not been independently established and that the applicant has been implicated merely because he used to work at the Dhobi Ghat situated behind the complainant's shop. He maintains that the allegation of robbery is misconceived and exaggerated, as the complainant was not present at the time of the occurrence and no force, violence, or threat was allegedly used in his presence. Learned counsel argues that the case of the applicant calls for further inquiry within the meaning of Section 497(2), Cr.P.C., as the available material is doubtful and insufficient to establish his involvement at this stage. He further submits that the applicant has already joined the investigation pursuant to the grant of interim pre-arrest bail in Bail Application No.2707 of 2026 and

is no longer required for further investigation; therefore, his arrest would serve no useful purpose. He maintains that the applicant is a law-abiding citizen, a permanent resident of Karachi, has deep roots in the community, and is neither likely to abscond nor to tamper with the prosecution evidence. He lastly contends that the learned trial Court failed to properly appreciate the delay in lodging the FIR, the alleged previous enmity, the absence of direct evidence, the subsequent introduction of witnesses, and the lack of recovery or independent corroboration, and that the impugned order is consequently based on misreading and non-reading of the material available on record. He, therefore, prays that the impugned order be set aside and the applicant be admitted to pre-arrest bail.

4. Learned counsel for the complainant vehemently opposes the grant of pre-arrest bail and submits that the applicant has been nominated on the basis of information gathered during inquiry into the theft. He contends that the delay in lodging the FIR is not, by itself, sufficient to discard the prosecution case, and the plea of false implication due to previous enmity is unsupported by any material. He argues that the statements of witnesses who allegedly saw the applicant borrowing a ladder shortly before the occurrence and the accused persons loading material into a rickshaw provide a connecting link with the alleged offence, while their credibility and alleged omissions are matters for trial. He further submits that the absence of recovery, CCTV footage, or other scientific evidence does not, by itself, establish the applicant's innocence, and the questions regarding ownership and valuation of the stolen articles and the alleged mode of entry also require examination at trial. He maintains that joining the investigation pursuant to interim pre-arrest bail does not automatically entitle the applicant to confirmation of bail, particularly when incriminating circumstances require further scrutiny. He lastly contends that the learned trial Court passed the impugned order after considering the available material and that no malafide or abuse of process has been established to justify the extraordinary concession of pre-arrest bail. He, therefore, prays for dismissal of the bail application.

5. The learned Addl. P. G. Sindh appearing on behalf of the State fully adopted the submissions advanced by the learned counsel for the complainant. She also opposed the grant of bail to the applicant, asserting that sufficient material has been collected during investigation connecting the accused with the offence, and thus, the case does not fall within the ambit of further inquiry.

6. I have carefully considered the submissions advanced by the learned counsel for both parties and examined the available record with due circumspection, as permissible at the bail stage, and with their able assistance. A tentative assessment of the FIR and other material placed

on record reveals that the FIR was registered on 08.05.2026, approximately seven days after the alleged occurrence dated 30.04.2026/01.05.2026. This delay in lodging the FIR remains unexplained by the prosecution. It is a well-established principle of criminal jurisprudence that unexplained delay in setting the law into motion is viewed with suspicion and may give rise to an inference that the FIR was lodged after deliberation and consultation. It further appears that the applicant has joined the investigation and recorded his statement. The alleged offence under Section 380, P.P.C., carries a punishment extending up to seven years and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. As for Section 457, P.P.C., it prescribes two distinct levels of punishment depending on the nature of the intended offence. Generally, lurking house-trespass or house-breaking by night with intent to commit any offence punishable with imprisonment attracts imprisonment of either description for up to five years, along with a fine. However, if the intended offence is theft, the punishment may extend to fourteen years, in addition to a fine. It remains to be determined at trial whether the alleged lurking house-trespass or house-breaking by night occurred, and if so, whether it was committed with intent to commit any offence, or specifically theft. The prosecution has not alleged that the applicant is likely to abscond or tamper with prosecution witnesses. In view of the tentative assessment of the material available on record, the case appears to call for further inquiry within the contemplation of Section 497(2), Cr.P.C. Reliance is placed on the case of Muhammad Shafi and others v. The State and others (2016 SCMR 1593), wherein the Honourable Supreme Court of Pakistan was pleased to hold that: “The law is settled by now that in a case calling for further inquiry into the guilt of an accused person bail is granted to him as of right or not by way of grace or concession”.

7. Keeping in view the above facts, prima facie applicant has succeeded to make out case for further inquiry, as envisaged under Section 497(2) Cr.P.C. Consequently, the bail application is allowed and the interim pre-arrest bail granted by this Court to the applicant/accused vide order dated 10.06.2026 is hereby confirmed on the same terms and conditions. However, applicant/accused is directed to attend the trial.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

J U D G E