IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2931 of 2026

Applicant	:	Shafiq Ahmed son of Mureed Ahmed Through Mr. Mudassir Ali Khan, advocate
Complainant	:	Shagufta Rizwan W/o. Rizwan Ahmed Through: Ms. Samreen Naz, advocate
The State	:	Through Ms. Najma Latif Golo, Assistant Prosecutor General Sindh
Date of hearing	:	22.10.2026.
Date of Order	:	22.10.2026.

O R D E R

Jan Ali Junejo, J:- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant namely Shafiq Ahmed son of Mureed Ahmed, who seeks his release on bail in connection with FIR No.307 of 2026 registered at Police Station Malir Cantt, Karachi for the offences punishable under Sections 380, 381 and 34 PPC. The applicant has approached this Court being aggrieved by the order dated 29.08.2026 passed by the learned Additional Sessions Judge-VII, Malir at Karachi whereby his bail application was declined.

2. The brief facts of the FIR, as stated by the prosecution, are that the complainant verbally stated that she has been residing at the above-mentioned address along with her husband and mother and has been a housewife for the last 12 years. She further stated that one employee namely Shafiq S/o Mureed Ahmed bearing CNIC No. 31301-6242601-5 was employed to perform household chores and drive her car, and that reposing trust in him, they had also handed over the keys of their house to him. She further stated that his friend, namely Shahbaz, frequently visited their house along with Shafiq. On 26.03.2026, she came to know that certain household articles, including two Seiko watches with blue and white dials, three tolas of gold, one gold ring, one bangle, one chain set,

and 15 tolas of silver, were missing from her house. Upon inquiry, she came to know that certain articles had also gone missing from the house of Nafees Khatoon W/o Muhammad Arshad Toni, a resident of Flat No. E-19, Sector C, Askari V, where the aforesaid employee had also been working during March 2026. Thereafter, upon consultation with her family members, the complainant approached the police for registration of the case, alleging that the aforesaid persons had stolen her valuable and expensive household articles, hence, the instant FIR was registered.

3. Learned counsel for the applicant/accused contended that the applicant is innocent and has been falsely implicated in the present case by the complainant, in connivance with the police, due to mala fide intentions and ulterior motives. It was argued that the alleged occurrence took place on 23.03.2026, whereas the FIR was lodged on 29.06.2026, after an unexplained delay of more than three months, which creates serious doubts regarding the prosecution's version and renders the case one of further inquiry. Learned counsel further contended that, according to the FIR, the applicant was a trusted employee of the complainant, and no plausible explanation has been furnished either in the FIR or in the statement recorded under Section 161 Cr.P.C. for the substantial delay in reporting the alleged occurrence. It was further argued that the complainant had also alleged the involvement of the applicant and his companion in a similar incident at the house of Nafees Khatoon; however, no independent or reliable evidence has been brought on record to substantiate such allegation. Learned counsel maintained that the applicant has no concern whatsoever with the alleged offence, as there is no direct evidence connecting him with the commission of the alleged theft, and the prosecution case is primarily based upon an alleged disclosure and doubtful recovery, without any independent corroboration. It was further contended that no private witnesses from the locality were associated with the alleged arrest or recovery despite their availability, thereby creating serious doubts regarding the authenticity of the prosecution's version. Learned counsel also submitted that the complainant's claim regarding the theft of valuable articles after remaining unaware of their disappearance for more than three months is questionable, and that the applicant has been nominated merely on the allegation that he was seen wearing a wristwatch similar in appearance to

the one allegedly stolen, which, by itself, does not establish his involvement in the alleged offence in the absence of independent and substantive evidence. It was further argued that nothing incriminating was actually recovered from the possession of the applicant and that the alleged recovery was foisted upon him by the police at the instance of the complainant. Learned counsel additionally contended that the co-accused has already been granted bail by the learned trial Court and that the applicant is entitled to the same relief in accordance with the principle of consistency, particularly when no stronger incriminating material has been attributed to him. It was further submitted that the impugned order itself acknowledges that the alleged video or digital evidence concerning the wristwatch requires forensic evaluation to establish any connection between the applicant and the alleged stolen property; therefore, the unresolved evidentiary questions call for further inquiry within the meaning of Section 497(2) Cr.P.C. Learned counsel lastly contended that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C., and, placing reliance upon 2023 MLD 143, PLD 2017 SC 733 and 2019 SCMR 1152, argued that grant of bail is the rule and refusal an exception in such cases. It was emphasized that bail cannot be withheld as a measure of punishment, as the applicant is presumed innocent until proven guilty, and his continued incarceration before conclusion of the trial would amount to pre-trial punishment; hence, the applicant is entitled to the concession of bail.

4. Conversely, the learned Assistant Prosecutor General, assisted by learned counsel for the complainant, has opposed the grant of bail, arguing that the applicant is specifically named in the FIR with a clear and defined role. It is contended that the applicant, being in a position of trust as a domestic servant, misused that trust and committed theft from within the complainant's home. They further submit that the recovery of stolen article from exclusive possession of the applicant strengthens the prosecution's case, and that his role is distinguishable from the co-accused, who was granted bail by the learned trial court on the ground of non-nomination and lesser involvement.

5. I have heard the learned counsel for the applicant, the learned Assistant Prosecutor General, assisted by the learned counsel for the

complainant, and have carefully examined the available record with their assistance.

6. At the outset, it is observed that the question before this Court is not to undertake a deeper appreciation of the evidence or to determine the guilt or innocence of the applicant, but to assess whether, at this stage, reasonable grounds exist for believing that he has committed the alleged offences or whether the case falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. The tentative assessment of the material available on record, without touching upon the merits of the case, reveals that certain aspects of the prosecution's case require further probe and cannot be conclusively determined at this stage.

7. It is further observed that the applicant was allegedly employed by the complainant to perform household chores and drive her vehicle, and was, according to the complainant herself, a person enjoying her trust. While such employment and access to the premises may constitute relevant circumstances for investigation, they do not, by themselves, establish the commission of theft by the applicant. Similarly, the allegation that the applicant was seen wearing a wristwatch resembling one of the allegedly stolen watches does not, without further supporting material, conclusively establish that the watch in his possession was the very property stolen during the alleged occurrence. Significantly, the impugned order is stated to acknowledge that the relevant video or digital evidence requires forensic evaluation to establish the connection between the applicant and the alleged stolen property. Until such evidence is properly examined and its evidentiary worth assessed, the alleged similarity of the wristwatch cannot, at this stage, be treated as conclusive incriminating material against the applicant.

8. The contention of the prosecution that a stolen article was recovered from the exclusive possession of the applicant is also required to be examined in the light of the available recovery proceedings and other supporting material. At the bail stage, the mere assertion of recovery cannot be considered in isolation; rather, its evidentiary significance, identification of the alleged stolen property, and connection with the offence are matters requiring tentative assessment. The defence has questioned the authenticity of the alleged recovery and pointed out that

no private witness was associated with the proceedings despite the alleged availability of independent witnesses. Although the absence of private witnesses does not automatically render a recovery inadmissible or unreliable, the surrounding circumstances of the recovery and the available corroborative material remain relevant to determine whether reasonable grounds exist for believing the applicant's involvement or whether further inquiry is warranted. These aspects are yet to be tested through evidence at trial.

9. As regards the principle of consistency, the learned counsel for the applicant has submitted that the co-accused has already been granted bail by the learned trial Court. The prosecution, on the other hand, has argued that the role of the applicant is distinguishable because he was specifically nominated and an allegedly stolen article was recovered from his possession, whereas the co-accused was granted bail on account of non-nomination and a lesser role. In this regard, it is settled that the principle of consistency is not to be applied mechanically and each accused is to be considered in the light of the material and circumstances specifically attributed to him. Therefore, the mere grant of bail to the co-accused would not, by itself, entitle the applicant to the same relief. Nevertheless, the applicant's case independently requires consideration on the basis of the unexplained delay, the nature of the alleged identification of the wristwatch, the need for forensic examination of the digital evidence, and the questions surrounding the alleged recovery.

10. It is also relevant to note that the offences alleged against the applicant are punishable under Sections 380, 381 and 34 PPC. The question whether the case attracts the prohibitory clause of Section 497 Cr.P.C. must be considered with reference to the punishment prescribed by law for the offences in question. Even where an offence does not fall within the prohibitory clause, grant of bail is not automatic; however, the principle that bail is ordinarily favoured in such cases, subject to the facts and circumstances of the particular case, remains a relevant consideration. In the present matter, the tentative assessment of the available material, particularly the unexplained delay in lodging the FIR and the unresolved evidentiary questions concerning the alleged wristwatch and its forensic

identification, persuades this Court that the case of the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

11. For the foregoing reasons, without expressing any final opinion on the merits of the case, I am of the tentative view that the available material does not warrant the continued incarceration of the applicant at this stage and that the questions discussed above are matters requiring further inquiry. Consequently, the instant post-arrest bail application is allowed, and the applicant Shafiq Ahmed son of Mureed Ahmed is admitted to bail subject to furnishing solvent surety in the sum of Rs. 50,000/- and P.R. bond in the like amount to the satisfaction of the learned trial Court. It is, however, observed that the findings recorded herein are tentative in nature, made solely for the purpose of deciding the present bail application, and shall not prejudice the case of either party during the course of trial.

JUDGE