

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1547 of 2025

Date: Order with Signature of Judge

Date of hearing : 28.08.2025
Date of announcement : 23.09.2025
Applicant : Through Mr. Sarfaraz Ali Metlo, Advocate
Complainant : Through Mr. Afaq Ahmed, Advocate
The State : Through Mr. Irshad Ali, Assistant Attorney
General I.O / Inspector Junaid Khizer, FIA,
CCC, Karachi

ORDER

MUHAMMAD HASAN (AKBER), J.- The concession of post-arrest bail has been sought in the instant application in Crime No. 07/2022, registered under Sections 3 & 4 of the AML Act, 2010 (as amended 2020) at Police Station FIA, CCC, Karachi. Earlier, the bail application of the applicant/accused was dismissed by the learned IIIrd Additional Sessions Judge, Karachi (Malir) vide order dated 02.06.2025, whereafter the applicant has approached this Court.

2. Brief facts of the case as narrated in the FIR are that FIR No. 289/2021 was registered at P.S. Malir Cantt, Karachi, against accused Imran Khan and Rizwan Riaz for offences under Sections 420/406/34 PPC on the complaint of Zartash Muhammad Khan. Investigation under Section 168 Cr.P.C. established criminal breach of trust, and the matter was later referred to FIA for money laundering aspects. Enquiry revealed that the accused, along with Atif Shabbir, through M/s Royal Securities (Pvt.) Ltd, fraudulently collected large sums from the public under the pretext of stock investments but instead diverted the funds into unknown businesses, personal use, and property purchases. The proceeds of crime were layered through multiple accounts, amounting to offences under Sections 406 PPC and 3/4 AMLA Act, 2010. Accordingly, a case was registered against M/s Royal Securities (Pvt.) Ltd, Imran Khan, Rizwan Riaz, Atif Shabbir, and others, with the competent authority's approval, and arrests of Imran Khan and Rizwan Riaz were effected for investigation.

3. Learned counsel for the applicant has contended that it is further contended that the applicant is innocent, not named in FIR or charge sheet, and has been falsely implicated. It is further contended that there is inordinate and unexplained delay in registration of the case, while investigation stands concluded and custody is no longer required. It is further contended that there is no sufficient material or proceeds of crime against him and the case falls outside the prohibitory clause, thus requiring further inquiry under section 497(2) Cr.P.C. It is further contended that the applicant is aged, suffering from ailments, has voluntarily surrendered, poses no risk of absconding or tampering, while trial is likely to prolong with many witnesses yet to be examined. It is further contended that co-accused have already been granted bail and the applicant, being a first offender, deserves the same concession. Learned counsel in support of his contentions, make reliance upon 2024 SCMR 14, 2023 YLR 166, 2024 SCMR 1596, 2019 P.Cr.L.J Note 19 and 2025 MLD 122.

4. Learned counsel for the complainant has contended that the applicant is directly involved in the fraudulent collection of huge amounts from the public through M/s Royal Securities (Pvt.) Ltd., which were misappropriated and laundered into unknown businesses and properties. It is further contended that money laundering is a serious financial offence affecting the economy and society at large, falling squarely within the AMLA Act, 2010. It is further contended that delay is explained due to complex investigation and layering of proceeds of crime, and the applicant's arrest is necessary to ascertain money trail and recover looted amounts. It is further contended that co-accused have already been implicated and trial is at an important stage, therefore bail would hamper proceedings and risk further tampering. Learned Assistant Attorney General has supported the case of the complainant.

5. Heard learned counsel for the applicant as well as complainant and learned AAG and perused the record. The instant FIR No.07/2022 was registered on 21.02.2022 under Sections 3 & 4 of the AMLA, 2010. The interim charge sheet was submitted on 09.03.2022. However, the present applicant was neither named in the FIR nor in the Charge Sheet. A perusal of the challan at page 43 of the court file confirms that his name does not appear as one of the accused. The record also reflects that there are three Directors of Royal Securities Company, but the applicant is not shown to be a Director or shareholder therein. Similarly, no property stands in

the name of the applicant. The allegation of ownership of Halls No.1 to 5 is also misplaced as those are held under goodwill/ Tenancy agreements with Malir Cantonment. Only Hall No.6 is referred to in this case, yet the prosecution has not been able to establish that it is owned by the applicant. No ownership document in favour of the applicant has been placed on record nor even referred in the Charge Sheet. The said property has been shown in his tax return of 2021 on Goodwill which alone does not demonstrate that it represents proceeds of crime within the contemplation of Section 4 of the AML Act.

6. Furthermore, the statement of PW-17, D.G FIA Officer Khalid Gul recorded under Section 161 Cr.P.C., refers to another individual, M. Azfar Jaffery, in connection with Rs.29 crore. The statement does not assign any specific role or culpability to the present applicant. This lends weight to the contention of the defence that no concrete evidence connects him with the alleged laundering. Another important factor is the timeline of events. Needless to mention that mere statement u/s 161 Cr.P.C. of a PW without any supporting or corroborative material does not carry weight.

7. The alleged offences pertain to the years 2016 to 2020, whereas the charge sheet was submitted as far back as 09.03.2022, and charge was framed on 24.12.2022. The applicant was only arrested on 13.05.2025 after an unexplained delay of nearly three years. During this entire period, no notice under Sections 18 or 19 of AML Act was issued to him, which casts further doubt on the prosecution's stance. At this stage, when the investigation stands concluded, challan has been submitted, and charge framed, further custody of the applicant serves no useful purpose. All these facts make it a case of further enquiry as envisaged under section 497(2) Cr.P.C. For the purposes of bail, what is required is a tentative assessment of the evidence and at this stage, the material on record does not reasonably establish that the properties in question are "proceeds of crime" attributable to the applicant. In absence of such evidence, applicability of Section 4 of AML Act requires further inquiry. Reliance can be placed on **2023 YLR 166**, where it was held that unless property is shown to be crime proceeds, Section 4 cannot be invoked conclusively. Similarly, **2020 P.Cr.L.J. Note 101** and **2019 P.Cr.L.J. 19** lay down that once

investigation is complete and no incriminating material surfaces, continued detention of the accused is unwarranted.

8. Even otherwise, Section 4 AML Act carries punishment from one to ten years, which does not attract the **prohibitory clause** of section 497 Cr.P.C. Thus, in line with the principle enunciated in **Salman Mushtaq v. The State 2024 SCMR 14**, bail in such matters is to be considered a matter of right. The Hon'ble Supreme Court has consistently held that when an offence does not fall under the prohibitory clause, bail should ordinarily be granted unless exceptional circumstances exist. The objection of the prosecution that the applicant had remained a fugitive or absconder for some time also does not, by itself, disentitle him to bail. In **Hasan Ali Raja v. The State 2020 P.Cr.L.J. 931** it was held that mere abscondence alone cannot override the merits of a case if the case otherwise calls for further inquiry. This view is reaffirmed in.

10. The plea of likelihood of tampering with prosecution evidence is also without merit. The investigation is complete, challan submitted and charge already framed. There is no realistic apprehension that the applicant may interfere with the evidence or influence witnesses, as noted in **Brigadier (R) Qaiser Sahhzad v. The State 2025 MLD 122**. The trial is likely to take considerable time due to the large number of witnesses and voluminous record, therefore keeping the applicant incarcerated for an indefinite period without substantive evidence against him would amount to pre-trial punishment.

11. Taking all these circumstances together, the applicant not being named in FIR or charge sheet, lack of material connecting him with proceeds of crime, unexplained delay of nearly three years in arrest, completion of investigation and framing of charge, the non-applicability of the prohibitory clause and settled law on further inquiry, it is evident that the applicant has made out a case for grant of post-arrest bail. Accordingly, the bail application is allowed and the applicant Khalid Islam son of Islam-ud-Din is admitted to post-arrest bail subject to furnishing solvent surety for a sum of Rs.100,000/- with bail bond of like amount to the satisfaction of the trial Court. The applicant shall fully cooperate with investigation and the trial Court; no unnecessary adjournment shall be granted; and in case of misuse of concession of

bail, the complainant may avail remedy in accordance with law. The observations made hereinabove are tentative in nature which shall not influence the learned trial Court while independently adjudicating the case on its own merits.

J U D G E