

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2836 of 2025

Applicant : Uzma Mustafa wife of Ghulam Mustafa
through M/s. Mayhar Kazi along with
Zahid Ali Sahito, Advocates

The State : Through Mr. Mohsin Kadir Shahwani,
Additional Attorney General, Pakistan
along with Mr. Sharaf-u-Din Jamali,
Assistant Attorney General and
Inspector/ IO-Babar Ali, FIA, AHTC,
Karachi

Date of Hearing : 03.11.2025

Date of Decision : 12.11.2025

ORDER

Jan Ali Junejo, J.- This Criminal Bail Application, filed under Section 497 of the Code of Criminal Procedure, 1898 (CrPC), seeks to set aside the Order dated 15.10.2025 (hereinafter the “Impugned Order”) passed by the learned Special Judge (Central-I) Karachi, whereby the Applicant’s Post-Arrest Bail Application (No. 17 of 2025) was dismissed. The Applicant seeks bail in connection with FIR No. 317 of 2025, registered at FIA, Anti-Human Trafficking Circle, Karachi, under Sections 3, 4, and 6 of the Prevention of Smuggling of Migrants Act, 2018 (PSMA, 2018).

2. The prosecution alleges that the Applicant, in her capacity as “YES Ambassador to Pakistan” and a “group leader”, was an active participant in a criminal conspiracy to smuggle migrants by facilitating and coaching twenty individuals to submit fraudulent visa applications to the U.S. Consulate. The Impugned Order of the learned Special Judge dismissed the Applicant’s bail plea after finding a prima facie case against her, noting that the offence falls under the prohibitory clause of Section 497(1) CrPC.

3. The learned counsel for the Applicant, Mayhar Kazi, fervently sought the grant of bail and advanced submission. It was argued, that the learned Special Judge failed to apply the “further inquiry” provision under Section 497(2), Cr.P.C., despite the prosecution’s own admission in both the FIR and the Challan that the Applicant’s exact role was “yet to be determined”, which, by itself, brings the case within the ambit of further inquiry and mandates consideration for bail. It was submitted that the prosecution’s entire case is founded exclusively on the statement of a co-accused, a statement that is legally inadmissible and inherently unreliable,

and therefore incapable of furnishing reasonable grounds for believing in the Applicant's guilt. This legal deficiency, according to counsel, was overlooked by the trial Court. Counsel emphasized the Applicant's chronic medical conditions, including diabetes and hypertension, which make continued incarceration disproportionately harsh and constitute a valid humanitarian basis for bail. On the strength of these submissions, the learned counsel prayed for the bail application to be allowed.

4. The learned Additional Attorney General, Mr. Mohsin Kadir Shahwani, with equal comprehensiveness and precision, vigorously opposed the bail and prayed for its dismissal. He argued that the Impugned Order was a product of the trial court's judicious and reasoned discretion, which this Court in its appellate jurisdiction must not lightly interfere with, absent a showing of patent perversity or illegality. He precisely emphasized that the offence, being an "Aggravated Offence" committed as part of an organized criminal group and attracting a punishment of up to fourteen years under Section 6 of the PSMA, 2018, falls squarely within the prohibitory clause of Section 497(1) Cr.P.C., thus reversing the burden onto the Applicant. Most compellingly, he demonstrated that a strong *prima facie* case was unequivocally established through a chain of direct evidence, including the Applicant's nomination as a "group leader", specific allegations of her coaching applicants for fraudulent visa interviews, and her own admission regarding a prior group member's visa overstay, which collectively paint a picture of her integral role in the criminal conspiracy and negate any possibility of "further inquiry". On these potent and conclusive grounds, the learned Additional Attorney General prayed for the application to be dismissed.

5. This Court has given due consideration to the submissions made by the Learned Counsel for both sides and has perused the record. The primary question before this Court is whether the learned Special Judge exercised his discretion judiciously and whether there are reasonable grounds for believing that the Applicant has committed the offence. The offence under Section 6 of the Act provides enhanced punishment where the offence qualifies as an "Aggravated Offence." In such circumstances, the punishment may extend to fourteen years, thereby bringing the matter within the prohibitory clause contained in Section 497(1), Cr.P.C. The term "Aggravated Offences" is defined to include:

(a) where the offence involves serious injury, life-threatening illness, or death, or other circumstances that endanger, or are likely to endanger, the life or safety of the smuggled migrant or another person;

(b) where the offence involves cruel, inhuman or degrading treatment of another person; or

(c) where the offence was committed as part of the activity of an organized criminal group.

6. In such cases, the burden is on the Applicant to show that there are no reasonable grounds for believing she has committed the offence. Furthermore, this Court, in its appellate jurisdiction, will not interfere with the discretion of the trial court unless the Impugned Order is found to be patently illegal or perverse. The contention that the case falls under “further inquiry” is directly rebutted by the material available on record, which establishes reasonable grounds for believing the Applicant’s guilt. The evidence clearly demonstrates the Applicant’s integral role in the alleged criminal conspiracy. Specifically, the material shows her direct nomination and role assignment, where she was identified as the “YES Ambassador to Pakistan” and a “group leader” in the FIR and complaint, which establishes a functional, non-peripheral role within the alleged criminal organization. More critically, the material includes a direct allegation of coaching, where visa applicant Shahmeer Hussain alleged that Uzma Mustafa and Kiran Faisal Khan coached applicants to provide false statements during visa applications and interviews. This directly links the Applicant to the core criminal act of facilitating fraud, an essential component of migrant smuggling under the PSMA, 2018. This is further corroborated by the allegation that the Applicant was involved in conducting training sessions for the visa applicants. Finally, the Applicant’s own statement, where she admitted to being the “YES Ambassador” and disclosed that a member of a previous group she led had overstayed their visa in the US, confirms her integral role and suggests knowledge of the high-risk, illicit nature of the organization’s activities. The cumulative effect of this material is sufficient to establish a strong prima facie case. The argument that the Applicant’s role is “yet to be determined” is merely a matter of semantics; the material clearly assigns her an active, specific role in the conspiracy. The learned Special Judge was therefore correct in concluding that the case does not fall within the exception of “further inquiry” under Section 497(2) CrPC.

7. That at the bail stage, the Court is only concerned with the existence of reasonable grounds, which the material clearly provides. Similarly, while the Court is sympathetic to the Applicant’s medical condition (diabetes and hypertension), the medical certificate does not indicate that her condition is so critical or life-threatening that it cannot be managed within the confines of the jail hospital. In the face of a heinous,

non-bailable offence, the medical grounds are not compelling enough to justify the grant of bail.

8. This Court finds no legal infirmity, perversity, or misapplication of law in the Impugned Order dated 15.10.2025 passed by the learned Special Judge (Central-I) Karachi. The trial court has exercised its discretion judiciously and on sound legal principles. The Applicant has failed to make out a case for interference by this Court.

9. For the foregoing reasons, the Criminal Bail Application filed on behalf of the Applicant being bereft of merits is hereby dismissed. The observations made herein are tentative in nature, restricted to the adjudication of this bail application, and shall not prejudice the case of either party during the trial.

JUDGE

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