

# **IN THE HIGH COURT OF SINDH AT KARACHI**

## **Criminal Bail Application No. 2511 of 2026**

Applicant : Majid Khan son of Ghulam Farooq,  
Through: Mr. Imdad Ali Saheto,  
advocate

The State : The State:  
Through Mr. R. D. Kalhoro,  
Assistant Attorney General a/w  
Investigation Officer Afroz Ahmed,  
A.D, FIA, AHT, Karachi.

Date of hearing : 29.09.2026.

Date of Order : 29.09.2026.

## **ORDER**

**Jan Ali Junejo, J:--** Through this order, I intend to dispose of the post-arrest bail application filed by the applicant Majid Khan son of Ghulam Farooq in connection with FIR No.200/2026 registered at Police Station FIA, AHT, Karachi, under Sections 3(2), 13/14 of the Foreigners Act, 1946. The applicant seeks his release on bail under Section 497 Cr.P.C. after his bail application was declined by the learned Sessions Judge Malir, Karachi vide order dated 22.07.2026.

2. Briefly stated, as per contents of the FIR, the prosecution case is that an Enquiry No.1234/2026 dated 06.07.2026 initiated on the basis of Offloading Report VRF No.106/2026 received from FIA Immigration, JIAP Karachi, is that accused Majid Khan son of Ghulam Farooq, holder of CNIC No.42301-3599052-3 and Pakistani Passport No.VK-4160521, was proceeding from JIAP Karachi to Saudi Arabia on 06.07.2026 by Flight No.FZ-334 on a work visa and valid OEP protector clearance, but was intercepted and offloaded for secondary inspection due to the recent issuance of his CNIC and passport, his inability to speak Urdu despite claiming to have resided in Karachi for more than a decade, his providing an incorrect residential address and demonstrating inadequate

knowledge of the locality, as well as his evasive conduct regarding an Afghan flag application installed on his mobile phone, which he deleted when questioned. During enquiry, the accused disclosed that although he was born in Karachi, he was unaware of the address mentioned on his CNIC and that at about one year of age he had shifted with his family to Karkhano, Peshawar, while his father remained in Karachi and worked as a labourer; he further disclosed that he returned to Karachi in 2025 and thereafter resided with his father and worked as a labourer, and in 2026 obtained his CNIC from NADRA Mega Center, DHA, Karachi, followed by a Pakistani passport from the Executive Passport Office, Clifton, Karachi, after which his brother Jahanzaib Khan, residing and working in Saudi Arabia, arranged his employment visa and protector clearance and booked his air ticket. On 06.07.2026, while attempting to depart for Saudi Arabia, he was intercepted by Immigration authorities and, being unable to provide a plausible explanation regarding his national status or the Afghan flag application on his mobile phone, was referred to FIA, AHT Circle, Karachi. During enquiry, despite being afforded sufficient opportunity to produce documents establishing his Pakistani nationality, the accused failed to provide any documentary proof relating to the national status of himself or his parents. Consequently, the enquiry disclosed sufficient grounds to suspect his Pakistani nationality and, prima facie, constituted offences punishable under Sections 3(2), 13 and 14 of the Foreigners Act, 1946, whereupon the present FIR was registered against accused Majid Khan and others and the accused was arrested, while investigation was taken up by the investigating officer, hence, this FIR.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated and is innocent; that the alleged offence does not fall within the prohibitory clause of Section 497(1), Cr.P.C., and the case at least calls for further inquiry under Section 497(2), Cr.P.C.; that the learned Sessions Judge, Malir, while

dismissing the earlier bail application vide order dated 22.07.2026, mis-appreciated the facts and law and effectively placed the burden upon the applicant to establish his nationality, whereas the prosecution is required to produce credible material to rebut the validity of the applicant's Pakistani CNIC and passport. He submitted that the applicant possesses valid identity documents issued by the competent authorities, while no verification report from NADRA or the Directorate General of Immigration & Passports has been produced to establish that the same were forged or fraudulently obtained, and reliance in this regard was placed upon *Zubair Ahmed v. The State* (Cr. B.A. No.1968 of 2019); that the alleged circumstances, including recent issuance of documents, inability to speak fluent Urdu, lack of knowledge of city routes, his Pashtun background and the presence of an Afghan-flag application on his mobile phone, do not constitute reasonable grounds to believe that he is a foreigner or has committed an offence under the Foreigners Act, particularly when such circumstances have no nexus with the alleged offence; that the applicant's father and brother are also Pakistani nationals holding valid CNICs, while the applicant was lawfully travelling to the Kingdom of Saudi Arabia on a valid employment visa, OEP Protector clearance, air ticket, Pakistani passport and CNIC, and had openly appeared before immigration authorities, which conduct is consistent with that of a bona fide traveller; that the reliance upon his limited Urdu proficiency and Pashtun background is misconceived and cannot displace the legal presumption attached to his valid identity documents; that the prosecution's case is founded on suspicion and conjecture and the question of the applicant's nationality requires further inquiry, particularly when the authenticity of his documents can be independently verified from the competent authorities; that the applicant has no previous criminal record, is a young person having roots in Karachi and no likelihood of absconding or tampering with the prosecution evidence, which is primarily documentary and already in possession of the prosecution; that the investigation is

complete and his further incarceration would serve no useful purpose and amount to punishment before conviction; that the observation of the learned Sessions Judge regarding the applicant's alleged "recurring involvement in similar prosecutions" is wholly unsupported by the record, as the applicant has no previous criminal case; and that, in the circumstances, the applicant's case squarely falls within the ambit of further inquiry, and he is entitled to the concession of bail, subject to furnishing solvent surety to the satisfaction of the Court.

4. Conversely, learned Assistant Attorney General for Pakistan opposed the bail application and submitted that during investigation the applicant failed to produce any valid document proving his Pakistani nationality. According to the learned AAG, the burden of proving citizenship lies upon the accused under the provisions of the Foreigners Act, and since the applicant has failed to discharge such burden, the learned trial Court rightly dismissed the bail application. He therefore prayed that the present bail application be dismissed.

5. I have heard learned counsel for the parties and carefully examined the material available on record. The allegation against the applicant is that he failed to produce documentary proof of Pakistani nationality and was therefore treated as a foreigner under the provisions of the Foreigners Act, 1946. At this stage, it appears that the case of the prosecution primarily hinges upon the question of nationality of the applicant, which requires proper determination after recording evidence during trial. The material presently available on record shows that the applicant has taken the plea that he is a Pakistani national and has produced certain documents including CNIC of his father and brother in support of his claim. The authenticity and legal effect of such documents are matters which can only be adjudicated after full-fledged evidence at trial. It is also noteworthy that the prosecution case mainly rests upon

documentary verification and official records, and there is no allegation of recovery of any incriminating article from the possession of the applicant in the present FIR. The question whether the applicant is a Pakistani national or otherwise is essentially a disputed question of fact which requires deeper appreciation of evidence and cannot be conclusively determined at the stage of bail. Furthermore, the record reflects that investigation in the present case has already been completed and the applicant is presently in judicial custody. The applicant is not shown to be required for further investigation. The prosecution witnesses are official witnesses, therefore the apprehension of tampering with prosecution evidence appears to be minimal. It is a settled principle of criminal jurisprudence that grant of bail is a rule while refusal is an exception, particularly where the guilt of the accused requires further probe and deeper appreciation of evidence. At this tentative stage, without touching the merits of the case, the material available on record suggests that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

6. For the foregoing reasons, this Criminal Bail Application is allowed. The applicant Majid Khan son of Ghulam Farooq is admitted to bail subject to his furnishing solvent surety in the sum of Rs.5,00,000/- (Rupees Five Lac only) 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**