

THE HIGH COURT OF SINDH KARACHI

Spl. Criminal Bail Appl. No. 85 of 2025

[Muhammad Kamal vs. The State]

Applicant : Muhammad Kamal son of Ahmed
through Ms. Dil Khurram Shaheen,
Advocate.

The State : Through Ms. Firdous Faridi,
Advocate/Spl. Prosecutor Customs.

Mr. Muhammad Khalid Javed Raan,
DAG.

Date of hearing : 13-05-2025

Date of order : 13-05-2025

*FIR Case No. DEC-130/2025/DEP/JIAP
U/S: 2(s), (16), 17, 139(2), (3) of the Customs Act, 1969
punishable under sub-clause 70(ii) (c) sub-section
156 (I) r/w 2(b) and 16 of Barrage Rules, 2006,
as notified in SRO.666(1)/2006 dated 28.06.2006 and
State Bank notification FE-2/2022-SB dated 08.11.2022
P.S: JIAP, Karachi*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant/Accused seeks post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by order dated 15.10.2024.

2. As per FIR, the Applicant was arrested at the International Departures Lounge of Jinnah International Airport, Karachi, where he had arrived for travelling to Dhaka via Dubai, and upon a search, Indian currency INR 1,973,500/- equivalent to US\$ 23,682 was found concealed in his trolley bag; therefore, he was arrested for the offence of smuggling foreign currency and for the offence of making a false declaration with respect to his baggage.

3. Learned counsel for the Applicant submits that he is a fisherman from Machar Colony; that he was travelling to Bangladesh to visit family; that one Sikandar had assisted him in procuring an

airline ticket and had also provided to him with a trolley bag; therefore, he was not aware of the Indian currency concealed within the trolley bag.

4. Heard learned counsel and perused the record.

5. Investigation thus far is that the Applicant does not have a prior criminal record. CDR of the cell phone seized from him also does not reveal connection with any smuggling cartel. Therefore, the Applicant's version that the trolley bag from which the foreign currency was recovered, was provided to him by another person, cannot be ruled out at this stage. In other words, the case against the Applicant requires a further enquiry into his guilt, thus falling within the ambit of sub-section (2) of section 497 CrPC.

6. The offence of making a false declaration in respect of baggage for which the Applicant was arrested, punishable under clause 70(ii)(c) of section 156(1) of the Customs Act given the quantum of currency seized, provides for imprisonment not exceeding two (02) years. Though the Applicant was also arrested for the offence of smuggling foreign currency, the FIR does not stipulate the provision under which he is liable to be punished. Given the quantum of currency seized, the offence could at best attract clause 8(iii)(c) of section 156(1) of the Customs Act where punishment by imprisonment does not exceed five (05) years. None of the offences alleged against the Applicant fall within the prohibitory clause of section 497 Cr.P.C. Thus, grant of bail becomes the rule and its refusal the exception.

7. For the foregoing reasons, the Applicant namely Muhammad Kamal son of Ahmed is granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of **Rs.300,000/- [Rupees Three Hundred Thousand Only]** each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

JUDGE

Karachi:

Dated: 13-05-2025

SHABAN*