

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.967 of 2025

Nisar Ahmed soon of Sabir Hussain.....Applicant/Accused

Versus

The State.....Respondent

Date of Hearing : 28.10.2025

Date of Short Order : 28.10.2025

For the Applicant : Mr. Rashid Mehmood Abbasi,
Advocate.

For the State : Mr. R.D Kalhoro, Assistant Attorney
General.

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ORDER

TASNEEM SULTANA, J: Through this criminal bail application, the applicant seeks pre-arrest bail in Crime No. 88 of 2023 registered by FIA AHT Circle, Karachi, under Sections 3, 4 and 6 of the Prevention of Smuggling of Migrants Act, 2018. Earlier same relief was granted but was recalled by the learned Sessions Judge Malir Karachi vide order dated 12.03.2025.

2. Briefly stated, the FIR was lodged on 09-08-2023 on complaint of Inspector Rehana Syed, In-charge Shift-B, FIA I&AH&S JIAP Karachi, alleging that five passengers deported from Libya disclosed during inquiry that they had paid different agents amounts ranging from five to seven lakh rupees for being sent abroad illegally; among them, Muhammad Imtiaz and Muhammad Mohsin specifically named the present applicant Nisar Ahmed, alleging that he had received Rs.2,250,000/- each for arranging their journey to Italy via Libya. On the basis of such disclosure, the present case was registered and later an interim charge sheet was submitted.

3. Learned counsel for the applicant contends that the applicant is a retired Subedar of Pakistan Army with unblemished record; that he has been implicated due to mere acquaintance as a co-villager of the deportees; that both said deportees namely Muhammad Imtiaz and Muhammad Mohsin have recorded their subsequent statements under Section 161 Cr.P.C. completely exonerating the applicant by

stating that he merely shared the contact number of one Qamar upon their own request and that he neither received any money nor participated in the alleged illegal transaction; that there is no corroborative material such as recovery, bank transaction or call data record connecting him with the alleged offence; that the FIR was lodged after two days without plausible explanation; that the matter calls for further inquiry within the meaning of Section 497(2) Cr.P.C., and that the offence being outside the prohibitory clause, the rule of bail should prevail.

4. Conversely, learned Special Prosecutor FIA opposed the application and supported the impugned order of the learned Sessions Judge by submitting that the applicant's name was specifically mentioned by the deportees during initial inquiry and he was therefore rightly booked in this case.

5. Heard. Record perused.

6. A tentative assessment is required at this stage. The object of such assessment is not to enter upon deep appreciation of evidence but to ascertain whether reasonable grounds exist for believing that the accused is connected with the offence or that his case calls for further inquiry within the meaning of Section 497(2) Cr.P.C.; it is a settled principle that in cases not falling within the prohibitory clause, grant of bail is a rule while refusal is an exception.

7. The material collected during investigation prima facie reflects that the subsequent statements of both deportees recorded under Section 161 Cr.P.C. have materially altered the complexion of the case. They categorically stated that the applicant was only approached to arrange contact of an agent; that he provided number of one Qamar unknown to him; and that all transactions were settled directly by them with said agent. These statements emanating from prosecution witnesses themselves have diluted the earlier accusation and render the prosecution version doubtful at this stage.

8. It further appears that the investigation has not produced any tangible evidence such as receipt, recovery, or call record to substantiate the alleged payment to the applicant. The delay in lodging the FIR remains unexplained. The applicant has retired from the Army, has a fixed place of abode, and has already surrendered

before the Court demonstrating his bona fides. Such circumstances, taken cumulatively, make the case one of further inquiry falling within the ambit of Section 497(2) Cr.P.C.

9. It is well-settled through precedents including *Nabi Bux* (supra) and *Khan Muhammad* (supra) that where the material collected raises doubt regarding the accused's participation, the benefit thereof must be extended even at the bail stage.

10. Accordingly, the applicant has succeeded in making out a case for confirmation of pre-arrest bail. Therefore, by a short order dated 28.10.2025 interim pre-arrest bail already granted to him was hereby confirmed on the same terms and conditions and these are the reasons for the same. The applicant shall continue to cooperate with the Investigating Officer and shall not misuse the concession of bail.

11. It is clarified that the observations made herein are purely tentative and confined to the disposal of this bail application and shall not influence the trial Court in any manner.

JUDGE

Ayaz Gul