

IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Bail Application No. 2662 of 2025

Applicant : Sarim Burney through Mr. Raj Ali Wahid,
Advocate.

Respondent : The State, through Mr. R.D Kalhoro,
Assistant Attorney General a/w SIP Bilal
Ahmed, FIA CBC Karachi, I.O of the case.

Date of Hearing : 10.11.2025.

Date of Judgment : 11.12.2025.

O R D E R

TASNEEM SULTANA-J.:-Through this bail application, applicant Sarim Burney seeks post-arrest bail under Section 497 Cr.P.C. solely on the statutory ground of delay in conclusion of the trial in Crime No. 126/2024 registered at P.S. FIA AHTC, Karachi under Sections 3(1)(2), 4 & 5 of the Trafficking in Persons Act, 2018 read with Sections 420, 468, 471 and 109 PPC. The learned Special Judge (Central)-II, Karachi, vide order dated 30.09.2025, declined bail on the ground that the charge had already been framed and the trial was poised to commence.

2. The facts of the prosecution case are already available in the FIR, same could be gathered from the copy of FIR attached with this application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant contends that the applicant has remained in custody since 05.06.2024 and that continued incarceration for more than one year amounts to pre-trial punishment, violating Article 10-A of the Constitution. He submits that almost on 17 dates of hearing either adjournment application was moved on behalf of learned counsel for the complainant or he sought time thus, delay in conclusion of trial is mainly attributed to the prosecution.

4. Conversely, learned Assistant Prosecutor General duly assisted by I.O SIP Bilal Ahmed, FIA CBC Karachi has opposed the application and contended that the applicant is Chairman of Sarim Burney Trust International which is surfaced as an organized Criminal Group involved in human trafficking and the instant case was initiated on the

complaint of the U.S. Embassy; that it is settled principle of law that bail on statutory delay is not an absolute right; the charge has now been framed and one prosecution witness has also been examined thus the trial in the case has commenced and the delay in trial was mainly occurred either for paucity of time with the Court or the Presiding Officer was on leave therefore, hence it could not be said that the prosecution was instrumental in causing delay in trial, thus the grievance of delay stands sufficiently addressed and looking to the gravity of offence in which applicant is involved, concession of bail can not be granted on statutory delay.

5. I have heard the parties and examined the record.

6. As far as gravity of the offence involved in the offence with which applicant is charged, perusal of record reveals that he is running a Trust in his name and title 'Sarim Burney Welfare Trust International' and being Head, he is the Chairman of the said Trust. The case of the prosecution is that on July 19 and November 2, 2023, the Immigration Team from the US Embassy Islamabad visited the Sarim Burney Welfare Trust office located at Main University Road Block 14 Gulshan-e-Iqbal Karachi and met with Chairman Syed Sarim Burney, legal representative, and Chief Executive Officer in connection with the human trafficking of the children. Thereafter, the Immigration Team reported the matter to the FIA and subsequently, the instant FIR was registered against the present applicant and other co-accused persons for child trafficking, fabrication of false and forged documents and misdeclaration in the Court proceedings. During the enquiry, it has been surfaced that the present applicant and other co-accused in collusion with each other knowingly and willfully gave false information, made misdeclaration as well as concealment of facts before the Family Courts District East Karachi in the garb of illegal adoption/Guardianship of three baby girls namely Baby Zehra Fatima, Baby Sarah Fatima and Baby Haya Nasir by using and providing fraudulent documents for the purpose of trafficking the above said baby girls to abroad by way of adoption/Guardianship and wrongful gain. Besides, it also appears from the record that the FIA initiated the inquiry No.273/2024 on the receipt of the complaint from the Consulate General of United States of America. Moreover, the Deputy Director (Admin) of Sindh Child Protection Authority vide letter dated 10.06.2024 has confirmed that 'Sarim Burney Welfare Trust International' is not registered under the Sindh Child Protection

Authority. However, the orphanage ‘Sarim Bumey Home for Homeless’ is registered under the Sindh Dar Ul Atfal (supervision and Control Act) 1976.

7. Although it is pointed out that on 17 dates of hearing prosecution sought time yet it is also noteworthy that on almost 19 dates of hearing matter was adjourned before trial Court either for want of time or Presiding Officer was on leave and on 5 occasions the matter could not be proceeded on account of strike call by High Court Bar or holiday.

8. The Hon’ble Supreme Court has repeatedly held that although delay in conclusion of trial is a recognized ground under the second proviso to Section 497(1) Cr.P.C., it is not automatic, and must be evaluated in the context of the nature of the offence, the stage of proceedings, and the conduct of the parties. The apex Court has cautioned that statutory delay must be weighed against competing considerations, such as gravity of charge and potential impact on public confidence. If trial is imminent or the delay is about to be cured, the ground of delay loses its persuasive force. In the case in hand the charge has already been framed and the trial has commenced by recording of one of prosecution witnesses, the purpose of the proviso stands substantially addressed.

9. This principle has been affirmed in multiple judgments where the Supreme Court declined bail despite prolonged incarceration when the trial had reached an advanced or imminent stage.

10. In the present case, the order of the learned trial Court reflects that the matter has been transferred to the Special Court, charge has been framed, and the trial Court has already fixed the matter for recording of prosecution evidence with directions for expeditious, day-to-day proceedings. When the trial has crossed the threshold from pre-charge stage to framing of charge, the foundational grievance of delay no longer survives with the same strength. The delay which occurred earlier is in the process of being remedied through commencement of trial. Therefore, the statutory ground cannot be pressed to override the judicial advancement of the case. Reliance is placed in the case of **Rehmatullah v. The State (2011 SCMR 1332)** wherein the Hon’ble Supreme Court of Pakistan has held that the courts should not grant or cancel bail when the trial is in progress and proper course for the

courts in such a situation would be to direct the learned trial Court to conclude the trial of the case within a specified period.

11. It is also settled proposition of law that where accusations affect public confidence and safety, Courts must exercise caution in extending bail merely on the basis of delay, particularly when the trial has already commenced.

12. It is undisputed that this is the applicant's sixth bail attempt, earlier applications having been dismissed on merits by all competent forums, including the Hon'ble High Court on 10.02.2025. Record reflects that delay in commencement of trial was either for administrative complications or the circumstances for which prosecution can not be held instrumental for delay in conclusion of trial, as discussed above.

13. In view of the above discussion, this bail application is dismissed. Trial Court is directed to conclude the trial within earlier possible time.

JUDGE