

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S –1121 of 2025

Applicant : Muhammad Arif s/o Qadir Bux, by caste Lund
Through Mr. Saeed Jamal Lund, Advocate

The State : Through Mr. Asadullah Rajper, AAG along with
S.I Nisar Ali Abbasi, and S.I Aijaz Ali, FIA CC SBA

Date of hearing : 29.01.2026
Date of order : 09.02.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— The applicant, Muhammad Arif, seeks post-arrest bail in a case bearing Crime No.19 of 2025, for offences punishable under Section 22(b) of the Emigration Ordinance, 1979 read with Sections 420, 468, 471, 109 and 34, PPC, registered at Police Station FIA Composite Circle, Shaheed Benazirabad. His earlier plea for a similar relief was declined by the learned Special Judge (Central), Sukkur, vide order dated 12.11.2025.

2. Succinctly, the allegation as set forth in the F.I.R. is that on 25.09.2025, complainant Muhammad Arab accused the present applicant of deceitfully inducing him and others to pay an aggregate amount of Rs.4,000,000/- for securing employment visas for Malaysia, further demanding Rs.200,000/- per person on arrival. It is alleged that the applicant, thereafter, transferred the amount to two travel agents, namely, Attiq-ur-Rahman and Hafiz Muhammad Jahangir, who neither provided visas nor returned the money, thereby committing fraud, cheating, and breach of trust.

3. Learned counsel for the applicant contends that the applicant is absolutely innocent, having been falsely roped in with mala fide intent to exhibit efficiency before higher authorities. It is argued that all the witnesses are interested and partisan, their statements suffering from inherent contradictions. No recovery, it is urged, has been affected from the applicant

at any stage. It is further emphasized that the actual beneficiaries, to whom the applicant allegedly remitted the amount, have not been nominated as accused either in the F.I.R or during investigation, which omission seriously dents the veracity of the prosecution case. It is next contended that since the case is essentially documentary in nature, requiring verification through evidence, the matter falls within the ambit of *further inquiry* as contemplated under Section 497(2) Cr.P.C. Learned counsel adds that the applicant bears a clean antecedent, is a law-abiding citizen, and that his continued detention would amount to pre-trial punishment.

4. Conversely, learned A.D (Legal) FIA, strongly opposes the bail plea, arguing that the applicant has admitted receipt of the sum of Rs.4,000,000/- from the complainant and executed a written agreement to that effect. Such conduct, it is contended, reveals dishonest intention. Learned Law Officer submits that ample documentary material, including bank statements, agreements, and statements under Section 161 Cr.P.C, connect the applicant with the commission of the alleged offences. It is further argued that the offence lies within the prohibitory clause of Section 497(1) Cr.P.C, thereby disentitling the applicant to the concession of bail.

5. I have heard the learned counsel for the respective parties and examined the record with due care and assistance. It is by now crystallized that at the stage of bail, only a tentative assessment of the material is required, without embarking upon a meticulous appreciation of evidence which squarely falls within the exclusive domain of the trial Court.

6. Upon such tentative scrutiny, it appears that the entire prosecution case rests primarily upon documentary evidence and the applicant's alleged admission regarding the receipt and onward transfer of the amount. Significantly, the prosecution itself concedes that the said amount of Rs.4,000,000/- was transmitted by the applicant to other

individuals, namely Attiq-ur-Rahman and Hafiz Muhammad Jahangir; yet, neither of them has been nominated in the F.I.R, shown in the interim challan, nor proceeded against during investigation. This selective implication of the applicant alone, while excluding the alleged principal beneficiaries, *prima facie* introduces an element of doubt regarding the fairness of the investigation, requiring deeper examination.

7. It is further of note that the investigation is still incomplete, and the final challan has not yet been submitted. The exact role of the applicant, his relationship with the said travel agents, and determination of his culpable intent are all questions that can only be settled upon recording of evidence at trial. At this stage, such contested factual aspects cannot be conclusively adjudged.

8. It is also observed that no recovery has been affected from the applicant. The alleged offences being documentary in character, all relevant material remains secured with the investigating agency. Hence, no apprehension of tampering or subversion of evidence is apparent. Nothing on record suggests that the applicant, if released on bail, would abscond or indulge in similar misconduct.

9. While the allegations may indeed be serious, the mere gravity of charge is not a sole ground for denial of bail where other circumstances render the case one of *further inquiry*. The selective prosecution of one accused, coupled with the omission to proceed against equally placed individuals, *prima facie* makes the case fit for the exercise of discretion in favor of the applicant under Section 497(2) Cr.P.C.

10. It is trite that bail is the rule and jail is the exception, as pre-trial detention cannot be permitted to assume the character of punitive incarceration. To continue the applicant's confinement in such circumstances would constitute an unwarranted hardship and pre-judgmental punishment.

11. Guidance in this regard may be drawn from the judgment in *Muhammad Tariq Ajmal v. The State* (2021 P.Cr.L.J 40), wherein in analogous circumstances relating to offences under the Emigration Ordinance, the accused was enlarged on bail upon finding that the case was documentary in nature, no incriminating recovery had been made, investigation was incomplete, and the question of criminal liability required fuller adjudication at trial. The same reasoning holds good in the present matter.

12. In view of the foregoing, and without delving into the merits of the case lest it prejudice either party at trial, I am of the tentative view that the applicant has succeeded in making out a case for grant of post-arrest bail on the ground of *further inquiry* as envisaged under Section 497(2), Cr.P.C.

13. Accordingly, this bail application is allowed. The applicant, Muhammad Arif son of Qadir Bux Lund, is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.2,00,000/- (Rupees Two Hundred Thousand) and a P.R bond in the like amount to the satisfaction of the trial Court concerned.

14. The observations made herein are purely tentative, confined to the disposal of this bail application, and shall not prejudice either party at the trial.

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