

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1354 of 2026

a/w

Criminal Bail Application No. 1404 of 2026

Applicant : Anar Gul
[in Cr. B.A No.1354/2026] Son of Ziyarat Gul
Through: Muhammad Jamil,
advocate

Applicants : 1. Muhammad Naseem
[in Cr. B.A No.1404/2026] S/o. Faqeer Ahmed
2. Taj Muhammad
S/o. Muhammad Hashim
3. Naimatullah
S/o. Saduzai
Through Mr. Habib-ur-Rehman,
advocate

The State : Through Mr. R. D. Kalhoro
Assistant Attorney General.

Date of hearing : 11.06.2026.

Date of Order : 11.06.2026.

ORDER

Jan Ali Junejo, J.- By this common order, I intend to decide the above captioned bail applications, as they arise out of same incident, filed under Section 497 Cr.P.C. by the applicant Anar Gul son of Ziyarat Gul [in Cr. B. A No.1354/2026 and 1) Muhammad Naseem son of Faqeer Ahmed, 2) Taj Muhammad son of Muhammad Hashim and 3) Naimatullah son of Saduzai [in Cr. B. A No. 1404/2026], who seek their release on bail in connection with FIR No.27 of 2026 registered at Police Station FIA, CBC, Karachi for the offences punishable under Sections 4/23 FER Act, 1947 R/w Section 109 PPC. The applicants have approached this Court being aggrieved by the order dated 30.04.2026, passed by the learned Sessions Judge, Karachi West whereby their respective bail applications were declined.

2. The prosecution case, in brief, is that on the basis of Enquiry No.65/2026 are that on 15-04-2026 at about 09:00 A.M, a Fard-e-Maqbozgi (Recovery Memo) was prepared at Mochko Police Chowki by

ASI Ayaz Baloch, pursuant to which Enquiry No. 65/2026 was registered at FIA CBC Karachi under the approval of the Deputy Director, CBC Karachi. The record reflects that during routine checking, ASI Ayaz Baloch along with P.C. Muneer Ahmed (Buckle No. 4574) and P.C. Hakim Ali (Buckle No. 32949) intercepted vehicle No. AZC-922 (Toyota Premio) being driven by Muhammad Naseem S/o Faqeer Ahmed, with Taj Muhammad S/o Muhammad Hashim, Naimat Ullah S/o Saduzai, and Anar Gul S/o Ziyarat Gul as occupants. Upon search of the individuals, their personal belongings were recovered as per the Fard-e-Maqbozgi; additionally, a 9mm pistol with loaded magazine containing 09 live rounds was recovered from the trunk (digi) of the vehicle, along with foreign currency amounting to 9.6 billion Iranian Rials, comprising 90 bundles of 100 million IRR each and 03 bundles of 200 million IRR each, concealed near the spare wheel in the trunk. The original recovery memo along with seized articles and custody of the individuals was subsequently handed over to FIA CBC Karachi on 15-04-2026 at 03:00 A.M through ASI Muhammad Ashraf. During inquiry proceedings, the accused persons failed to furnish any lawful or satisfactory explanation regarding possession of the said foreign currency and weapon, and prima facie it was established that they were acting in collusion with common intention for illegal sale/purchase and trafficking of foreign currency. Accordingly, with the approval of the competent authority, a case under Sections 4/23 of the Foreign Exchange Regulation Act, 1947 (as amended in 2020), read with Section 109 PPC, was formally registered against Muhammad Naseem S/o Faqeer Ahmed (CNIC No. 54400-7018434-1, R/o Muhammad Khair Road, Muhallah Abdul Wali Chowk, Pastoon Darha, Quetta), Taj Muhammad S/o Muhammad Hashim (CNIC No. 54400-2885831-3, R/o Pashtoonabad, Achakzai Colony, Khushall Road, Quetta), Naimat Ullah S/o Saduzai (CNIC No. 54400-0290057-9, R/o Muhallah Khilji Road, Loharkarez, Quetta), and Anar Gul S/o Ziyarat Gul (CNIC No. 54400-6408152-1, R/o Block-5, Muhallah Satellite Town, Quetta), whereafter all four accused persons were formally arrested, hence, this FIR.

3. Learned counsel for the applicant in Cr. Bail Application No. 1354 of 2026 submits that the applicant is innocent and has been falsely implicated by the FIA officials. He contends that no foreign currency was recovered from the exclusive possession of the applicant, who was merely a co-passenger in the vehicle from which the alleged Iranian Riyal was recovered, and that the said vehicle does not belong to him. Learned

counsel further argues that there is no cogent or convincing evidence showing that the applicant made or received any payment to or from any person residing outside Pakistan so as to attract the provisions of Sections 4 and 23 of the Foreign Exchange Regulation Act, 1947, and that the prosecution case rests solely upon the alleged confessional statement of a co-accused. He submits that no specific role has been assigned to the applicant in the interim challan and that the investigation is admittedly incomplete, as reflected therein, rendering the matter one of further inquiry within the meaning of Section 497(2), Cr.P.C. It is further contended that neither the FIR nor the interim challan contains any allegation of sale, purchase, transfer, import or export of foreign currency by the applicant, nor is there any material connecting him with Hawala/Hundi transactions. Learned counsel also submits that no independent witness was associated with the alleged recovery despite it having been effected at a public place, thereby violating Section 103 Cr.P.C. He argues that the alleged offences are punishable under Section 23 of the Foreign Exchange Regulation Act, 1947 do not fall within the prohibitory clause of Section 497(1), Cr.P.C. It is further submitted that the case is based entirely on documentary evidence already in the possession of the prosecution, the forensic examination of the mobile phones is still awaited, and there is no likelihood of the applicant tampering with the evidence or influencing the prosecution witnesses, who are FIA officials. Learned counsel lastly submits that the applicant is a law-abiding citizen with no previous criminal record and prays for grant of bail.

4. Learned counsel for the applicants in Cr. Bail Application No. 1404 of 2026 submits that the applicants are innocent and have been falsely implicated in the present case in collusion with the police officials due to mala fide intentions and ulterior motives. He contends that no specific role has been assigned to the applicants in the FIR and that no recovery has been effected from their personal possession. According to the prosecution case itself, the alleged foreign currency was recovered from the trunk/spare-wheel compartment of the vehicle, which was neither in the exclusive possession nor conscious control of the applicants; therefore, the essential ingredient of conscious possession is lacking. Learned counsel further argues that the alleged recovery is highly doubtful as no independent witness was associated despite availability, all mashirs being police officials, and neither photography nor videography of the recovery was conducted. He submits that the FIR is based solely upon a fard-e-maqboozgi prepared by police officials without independent

corroboration. It is further contended that the applicants were merely passing through the area when they were intercepted and falsely implicated after refusing to accede to an unlawful demand for gratification. Learned counsel also submits that another FIR bearing No. 26 of 2026 reflects that the actual culprits were allegedly let off and the present applicants have been substituted in their place, thereby demonstrating mala fides on the part of the prosecution. He argues that the prosecution story is replete with contradictions and raises reasonable doubt, bringing the case within the ambit of further inquiry under Section 497(2), Cr.P.C. It is further submitted that the alleged offence under Section 23 of the Foreign Exchange Regulation Act, 1947 does not fall within the prohibitory clause of Section 497, Cr.P.C. The applicants are stated to be law-abiding citizens with no previous criminal record and no likelihood of absconding or tampering with the prosecution evidence, learned counsel prays for grant of bail to the applicant.

5. Learned Assistant Attorney General, assisted by the Investigating Officer, argues in opposition that a huge quantity of foreign currency was recovered from the possession of the applicants, and he contends that the applicants themselves admitted their involvement in unlawful dealings. He further submits that the applicants are prima facie connected with the commission of the offence and, therefore, are not entitled to the concession of bail. He also adds that, with regard to the recovery of the weapon, the Investigating Officer has written a letter to the Home Department; however, the response is still awaited. Lastly, he prays for dismissal of the bail applications.

6. I have considered the arguments advanced by the learned counsel for the parties and examined the record with their able assistance. At the bail stage, this Court is not required to conduct a detailed appraisal of evidence; however, it is obligated to see whether reasonable grounds exist to believe that the accused is guilty of the alleged offence or whether the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. A bare reading of Section 4 of the Act reveals that mere possession of foreign currency is not criminalized; rather, the section specifically prohibits "dealing" in foreign exchange, including buying, selling, transferring, or entering into exchange transactions without authorization from the State Bank of Pakistan. The emphasis of the provision is, therefore, on a "transaction" and not on possession simpliciter. Consequently, an offence under Section 4 is attracted only

when the prosecution establishes the identity of the buyer or seller, the nature of the transaction, proof of exchange activity, and some financial or commercial trail demonstrating transfer or delivery. In the present case, the prosecution has failed to produce any customer, buyer, sale consideration, record of exchange, ledger, or communication establishing any transaction. Mere recovery of foreign currency, without proof of an unlawful transaction, does not fulfil the ingredients of Section 4, thereby rendering its applicability doubtful at the bail stage and clearly attracting the doctrine of further inquiry. Section 23 of the Act does not create an independent offence; it merely prescribes the punishment upon proof of a contravention of Section 4. Therefore, the penal consequence under Section 23 arises only where a violation of Section 4 is prima facie established. Where the applicability of Section 4 itself is doubtful, Section 23 cannot operate independently. FERA being a regulatory statute governing financial discipline, criminal liability thereunder arises only when unlawful "dealing" in foreign exchange is conclusively shown. Possession without corroborative material is insufficient to presume guilt. In the present case, there is no transaction, no proven dealing, no exchange activity, and no identified customer; thus, the requisite mens rea and the basic ingredients of the offence are prima facie not established. This, therefore, squarely calls for further inquiry at the bail stage.

7. This Court, therefore, prima facie holds that the ingredients of Section 4 of the Foreign Exchange Regulation Act, 1947 are not made out. Since Section 23 is merely a consequential penal provision, it necessarily collapses with the failure of Section 4. There exists no statutory bar rendering the offence non-bailable; hence, the case squarely falls within the ambit of Section 497(2), Cr.P.C., whereby grant of bail becomes a legal right rather than a concession. As the prosecution has failed to establish the mandatory ingredients of Section 4 of the Act, the penal provision under Section 23 cannot operate independently, and consequently, the present case is clearly one of further inquiry.

8. Admittedly, the offences under Sections 4 and 23 of FERA, 1947 are not punishable with death, imprisonment for life, or imprisonment for ten years; therefore, they do not fall within the prohibitory clause of Section 497, Cr.P.C. It is a settled principle of law that in non-prohibitory offences, bail is the rule and jail is the exception, unless extraordinary circumstances exist. Any alleged confession made before FIA officials carries no evidentiary value under the law, as confessional statements

must be recorded before a Magistrate to attain legal sanctity. Hence, the prosecution cannot build its entire case upon such a statement. Moreover, the alleged recovery was effected from a public place, yet not even a single independent witness was associated, a lapse which seriously dents the credibility of the prosecution case and strengthens the plea of further inquiry.

9. The applicants are neither shown to be a previous offenders nor involved in any similar case; there is no allegation of absconsion, nor are they demonstrated to be a threat to prosecution witnesses. All witnesses are officials of FIA and the evidence is documentary in nature; therefore, no reasonable apprehension of tampering is made out. Considering the non-prohibitory nature of the offence, absence of independent corroboration, legally inadmissible confession, non-identification of any buyer or seller, and the clear case of further inquiry under Section 497(2), Cr.P.C., I am of the considered view that the continued incarceration of the applicants are not justified.

10. For the reasons recorded hereinabove, the these Criminal Bail Applications are allowed. The applicant Anar Gul son of Ziyarat Gul [in Cr. B.A No.1354/2026] and 1) Muhammad Naseem son of Faqeer Ahmed, 2) Taj Muhammad son of Muhammad Hashim and 3) Naimatullah son of Saduzai [in Cr. B. A No. 1404/2026] are admitted to post arrest bail in case bearing crime No.27/2026, under Section 4/23 FER Act, 1947 R/w Section 109 PPC registered at PS FIA, CBC, Karachi subject to their furnishing solvent surety in the sum of Rs.1,00,000/- [Rupees One Lac only] each and PR bond in the like amount to the satisfaction of the learned trial court.

11. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. The application stands allowed in the above terms.

These are the detailed reasons of the Short Order dated: 11-06-2026.

JUDGE