

**IN THE HIGH COURT OF SINDH, AT KARACHI****Cr. Bail Application No. 2331 of 2025**

Applicant : Rehman Khan son of Abdullah,  
through Mr. Nusrat Ali Shar, Advocate.

Respondent : The State, through Mr. Muhammad  
Noonari, Deputy Prosecutor General Sindh.

Date of hearing: 06.02.2026.

Date of Order : 06.02.2026.

**ORDER**

**TASNEEM SULTANA, J.**—Through this criminal bail application, the applicant Rehman Khan seeks post-arrest bail in Crime No.1040 of 2025, registered under Sections 14-A, 14-B of the Foreigners Act, 1946 at Police Station Sachal, Karachi. Earlier his bail application bearing No.3102 of 2025 was dismissed by the learned Sessions Judge, Malir, Karachi, vide order dated 23.08.2025; hence, this application for same concession.

2. Brief facts of the prosecution case are that ASI Riaz Hussain Laghari, vide report No. 45, while engaged in the investigation of FIR No. 1021/2025 under Sections 397/34, P.P.C. and FIR No. 1023/2025 under Sections 382/34, P.P.C., interrogated the arrested accused namely Rehman, Noor Muhammad and Ali Raza. During the course of interrogation, the said individuals were required to produce proof of Pakistani nationality; however, they failed to produce any valid identity documents, whereafter it surfaced that they were residing in Pakistan without lawful authority. Thereafter, the complainant arrested them in accordance with law and lodged the present FIR upon completion of enquiry.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated; that the entire case is documentary in nature and no incriminating recovery has been effected from his personal possession; that the applicant was born in Karachi East, his parents were married in Karachi, and such facts are duly reflected from the record of NADRA, thereby raising mixed questions of fact relating to nationality which cannot be conclusively determined at the bail stage; that the applicant has remained behind bars since his arrest, the investigation is complete, no further custodial interrogation is required, and the case squarely falls within the ambit of further inquiry under Section 497(2) Cr.P.C.

4. Per contra, learned Deputy Prosecutor General Sindh, for the State, opposed the instant bail application and submitted that the offence pertains to illegal entry and that, under Section 9 of the Foreigners Act, 1946, the burden lies upon the accused to establish his lawful status; and that the alleged offences fall within the prohibitory clause.

5. Heard. Record perused.

6. A tentative assessment of the available record reflects that the prosecution case rests primarily upon documentary material relating to the applicant's nationality. The applicant claims to have been born in Karachi and relies upon a birth registration certificate issued by the Government of Sindh, which, in the absence of proper verification, requires evidence for its determination and cannot be conclusively resolved at the bail stage. Whether such material establishes or negates the applicability of the Foreigners Act, 1946, is a mixed question of law and fact requiring determination on the basis of evidence.

7. The offenses under sections 420 and 471, P.P.C. are bailable, insofar as the offense under section 468, P.P.C. is concerned the punishment does not fall within the prohibitory clause of section 497, Cr.P.C., therefore, prima-facie, the material currently available on the record of the case is not sufficient to say that there are reasonable grounds for believing that he has committed the alleged offences; but there are sufficient grounds for further inquiry into his guilt in terms of Section 497(2) of Cr.P.C. On the aforesaid proposition, I am guided by the decisions of the Supreme Court in the cases of **Muhammad Sarfraz Ansari Vs. The State (2021 PLD SC 738)** and **Malik Muhammad Tahir Vs. The State (2022 SCMR 2040)**.

8. As far as Section 14-A and 14-B Foreigners Act is concerned, the evidence against the accused is still to be evaluated and it is yet to be seen as to whether it is applicable under the attending circumstances of the case or not. In such circumstances of the case, the Supreme Court of Pakistan in the case of **Haji Wali Muhammad v. The State 1969 SCMR 233** held as under: -

"As a general rule on a charge of the kind made in this case not invoking a sentence of death or transportation for life, bail should ordinarily be allowed disregarding the grounds of the seriousness or anti-social nature of the offence, unless there are strong grounds, in the shape of evidence for the belief that he is guilty".

9. The learned counsel for the applicant also placed reliance on the case of **Fazal Wahid v. The State (2019 YLD 171 [Sindh (Hyderabad Bench)]**), wherein the evidence such as death certificates of parents, CNIC of relatives, and birth certificates supporting the applicant's residence in Pakistan warrants

bail on the ground of further inquiry. Learned counsel has also placed reliance in **PLD 1988 Karachi 64**, wherein the accused was charged under section 14 Foreigners Order, 1951, Article 3(a), and he was allowed bail. Reliance can well be made on **MLD 2017 Page 259**, wherein it was held that bail cannot be denied to the accused when it is a well-settled principle of law that bail cannot be withheld as conviction in advance. The rest of the sections do not fall within the prohibition contained in section 497, Cr.P.C. Moreover, the accused/applicant is neither required for investigation nor is a previous convict.

10. The Supreme Court in the case of **Saeed Ahmed Vs. The State 1996 SCMR 1132** held as under: -

“3. The learned counsel for the petitioner contended that there is no prohibition for grant of bail in respect of offences mentioned above, but with mala fide intention subsequently offence under section 409, P.P.C. has also been added in order to bring the petitioner's case within the prohibitory clause of section 497, Cr.P.C. The case entirely depends upon documentary evidence which seems to be in possession of the prosecution and challan has already been submitted. The objection of the learned counsel regarding addition of section 409, P.P.C. may carry some weight while considering the bail, application. As there is no possibility of tampering with the evidence, which is entirely documentary in nature and in possession of the prosecution, in the circumstances, we convert the petition into an appeal and allow it, and grant bail to the petitioner on furnishing one surety in the sum of Rs.50,000 to the satisfaction of the Deputy Registrar, Supreme Court, Lahore.”

11. In view of the above facts and circumstances, instant bail application is allowed and the applicant Rehman Khan , is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R bond in the like amount to the satisfaction of the learned trial Court, who shall ensure that the surety must be local, reliable and men of means and he shall ensure his attendance on every date of the trial proceedings so that the trial is not delayed on his account. In the event he fails to do so, the prosecution shall be at liberty to apply to recall this order.

12. The observations made herein are tentative in nature and shall not influence the learned trial Court in any manner.

These are the reasons of my short order dated 06.02.2026.

**JUDGE**