IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3616 of 2026

Applicants	:	1. Muhammad Abid son of Muhammad Bashir 2. Basit Nayyer son of Nayyer Marghub *Through* M/s. Hassan Sabir, Salman Sabir & Sana Abid, Advocates
Respondent	:	The State *Through* Mr. R. D. Kalhoro, Deputy Attorney General along with S.I. Shaikh Shehroz, FIA, Commercial Bank Circle, Karachi.
Date of hearing	:	05.11.2026
Date of Order	:	05.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. – Applicants Muhammad Abid and Basit Nayyer seek post-arrest bail in a case bearing Crime No.67/2026, registered at FIA Commercial Banking Circle, Karachi, for offence under sections 4, 5, 8 and 23 of the Foreign Exchange Regulation Act, 1947 ("the Act"), read with sections 109 and 34, P.P.C. Their earlier application was dismissed by the learned Vth Additional Sessions Judge, Karachi East, on 24.10.2026.

2. The applicants were intercepted at Jinnah International Airport, Karachi, on 02.10.2026 while proceeding to the United Arab Emirates. The initial prosecution narrative attributes recovery of USD 5,000 to Muhammad Abid and USD 15,100 to Basit Nayyer, whereas the subsequent inventory records USD 10,000 against the former. A further USD 30,000 was allegedly recovered from Basit Nayyer's residence. The prosecution also relies upon disclosures attributed to the applicants concerning delivery of currency to Mansoor in Dubai and earlier transactions involving other persons. Following their arrest on 03.10.2026 and physical remand, the applicants were committed to judicial custody; an interim challan was submitted on 15.10.2026.

3. Learned counsel for the applicants questioned the inconsistent recoveries, legality of the residential search and absence of independent corroboration of the alleged transactions. Relying upon 2024 YLR 2635[1], the SBP instruments, exchange receipts and bank statements, they submitted that the offences fall outside the prohibitory clause and the seized material requires no further detention of the applicants. Conversely,

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[1] *Abdul Karim v. The State*

learned Deputy Attorney General opposed bail, relying upon the recoveries, alleged disclosures, SBP notification dated 06.08.2018 and 2025 YLR 2172[2].

4. Heard and examined the available record. The punishment prescribed by section 23(1) of the Act extends to five years; the case, therefore, falls outside the prohibitory clause of Section 497(1), Cr.P.C. In such offences, bail is ordinarily the rule and refusal an exception requiring justification through circumstances borne out by the record. The principles enunciated in PLD 1995 SC 34[3], PLD 2017 SC 733[4] and PLD 2021 SC 903[5] require consideration of a demonstrated likelihood of abscondence, interference with evidence or repetition of the offence. The amount involved and gravity of the allegation, though relevant, do not dispense with that assessment.

5. The SBP instruments relied upon regulate distinct situations. Notification dated 06.08.2018 requires a person carrying foreign currency exceeding USD 10,000 within Pakistan to establish authorized acquisition and legitimacy of the funds. The notification dated 08.11.2022 prescribes an outward travel allowance of USD 5,000 per adult per visit, subject to the annual ceiling and declaration requirements. Consequently, lawful acquisition does not authorize export beyond the permissible limit. The USD 15,100 attributed to Basit Nayyer exceeds that allowance; however, the prosecution's inconsistent attribution of USD 5,000 and USD 10,000 to Muhammad Abid bears directly upon the alleged contravention and requires examination against the original recovery record.

6. The possession of currency at a residence does not, without supporting material, establish its intended unlawful export or an unauthorized foreign exchange transaction. The receipts in the names of Fatima Nayyer and Attia Noreen and bank statements in Fahad Nayyer's name do not conclusively explain the applicants' possession; their nexus and authenticity require verification. Conversely, the alleged disclosures concerning earlier transactions cannot be treated as established facts. Their admissibility, any portion legally relating to discovery, and independent corroboration remain matters for examination. The prosecution itself recorded the need for corroboration, while the forensic examination of the seized phones remained awaited in the material placed before the Court.

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[2] *Shoukat Babar Virk v. The State through FIA and another*
[3] *Tariq Bashir and 5 others v. The State*
[4] *Muhammad Tanveer v. The State and another*
[5] *Muhammad Imran v. The State & others*

7. The contention that section 23-A invariably requires prior judicial permission for investigation or arrest is misconceived; that provision concerns the Tribunal and its powers. The requirement of an authorized complaint under section 23(3) must also be read with its exception concerning unauthorized persons involved in illegal foreign exchange business. Whether the prosecution establishes the foundation for that exception, and whether the search complied with the applicable procedure, shall remain open before the competent Court. Bail need not rest upon a conclusive declaration invalidating those proceedings.

8. In *Abdul Karim* (supra), bail was granted where the alleged unlawful transactions required further scrutiny, the relevant property stood secured and forensic examination remained pending. Its observation regarding possession of currency cannot be extended to authorize carriage abroad beyond the prescribed limit; its application of the settled principles governing bail nevertheless remains relevant. *Shoukat Babar Virk* (supra) turned upon documentary corroboration of alleged diversion of trust funds, forged instruments and conduct indicating repetition, with section 406, P.P.C., treated as the controlling offence. Those distinguishing circumstances have not been demonstrated here. The pre-arrest bail granted to three co-accused also affords no automatic parity, since no recovery was attributed to them.

9. The currency, passports and mobile phones are already secured; physical remand has concluded and the applicants remain in judicial custody. No specific material has been identified establishing a previous conviction, attempted interference with evidence or a concrete likelihood of abscondence or repetition. Their interrupted journey, preceding arrest, does not itself establish an intention to evade trial. The disputed recovery figures and uncorroborated wider transactions require further inquiry, while an anticipated forensic result cannot furnish a present ground for indefinite detention. The case thus attracts section 497(2), Cr.P.C., besides the rule favouring bail in offences outside the prohibitory clause.

10. Accordingly, the application is allowed. Applicants Muhammad Abid and Basit Nayyer are admitted to post-arrest bail upon each furnishing solvent surety of Rs.500,000/- and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

11. The observations herein are tentative and shall not prejudice determination of the case on merits

J U D G E

Shahbaz