

## **IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No.2717of 2024

Applicant : Syed Sarim Ahmed Burney S/o Syed Mukhtar Ahmed Burney through Mr. Aamir Mansoob Qureshi, Advocate

Respondent : The State through Mr.Sarfraz Khan, DPG a/w Inspector Bilal Ahmed, I.O. of the case

Date of hearing : 10.02.2025

Date of short order : 10.02.2025

### **ORDER**

**AMJAD ALI SAHITO, J** --Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.126/2024for the offence under Sections 3(1)(2) 4 & 5 TIP 2018 r/w420/468/471/109PPC registered at PSFIA AHTC, Karachi, after his bail plea has been declined by the learned XIVth Additional Sessions Judge, Karachi East vide order dated 22.10.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant has argued that the present accused is innocent and has falsely been booked by the FIA official in the present case; that no forged and fabricated documents were ever prepared by the present accused, however, the adoptive parents filed the Guardian & Wards Application before the concerned Courts and Sarim Burney Trust International has no concerned with the Court proceedings in Guardian & Ward cases. He further submitted that mis-declaration before the Court can be agitated by the concerned Court and no third person, FIA official or police

official can lodge the FIR against the mis-declaration before the Court; that due to the adoption procedure, the names of the adopted children were changed by their adoptive parents while filing Guardian & Ward Application; that no trafficking of the children was made by the present accused, as the children are still in the custody of Sarim Burney Trust. He further added that the Trust has received an amount of USD 3000/- as legal counsel and administrative charges; that contents of the FIR reveal that the principal accused Basalat Ali Khan solely in his own capacity has executed Deeds of Adoption so also appeared as Respondent before the Family Courts without any authorization of the Trust; that the present applicant has been implicated in this case according to the trust deed but neither the applicant exercised such powers for adaptation process nor he is part thereof; that statements recorded U/s 161 Cr.P.C. of the adoptee families and their witnesses clear show that nowhere they have mentioned present applicant being part of either deed of adoption or court proceedings. He further added that the sections mentioned in the FIR are not attracted in the case of the present accused and the offence mentioned in the FIR does not fall within the prohibitory clause of section 497(i) Cr.P.C. and the applicant is behind bars since his arrest and he is no more required for further investigation. He further argued that all the above-mentioned facts, circumstances, and the story manipulated by the FIA makes the case of the present accused highly doubtful and becomes the case of further enquiry. Lastly, he prays for a grant of bail.

4. On the other hand, learned DPG duly assisted by the I.O. has opposed the instant bail application for the reasons that the Sarim Burney Trust International is an organized Criminal Group involved in human trafficking. I.O. submitted that the instant case was initiated on the complaint of the U.S. Embassy. He further submitted that the Sarim Burney Trust International facilitated in obtaining the Guardianship certificate of the minors/children by misrepresentation and

misdeclaration before the concerned Court while changing the names of the minors as well as taking the false declaration that the children were found abandoned before the gate of Sarim Burney Trust International. Whereas, the record of the Sarim Burney Trust International shows an affidavit by an alleged father Muhammad Wasif Shabbir that he did renunciation of both daughters to Sarim Burney Welfare Trust International to hand them over for an adoption to any interested family. He further submitted that in the case of minor Haya Nasir Noorwala same plea was taken before the concerned Court for obtaining a Guardian & Ward Certificate, however, the record shows that the above-said minor was also renounced by a biological parent with the consent to hand over the child to any interested family for adoption; that Sarim Burney Trust International is found involved in fraud, cheating and forgery of documents so also human trafficking. He lastly prayed for the dismissal of the instant Bail Application.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. The Applicant claims 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. Upon perusal of the record, it appears that two female children namely "Jannat & Fatima" were handed over to Sarim Burney Trust International by their alleged father Muhammad Wasif Shabbir. However, before the Guardian Court, the names of the above-mentioned children were concealed and misrepresented as Sarah Fatima and Zehra Fatima for the purpose of their adoption. Moreover, children were shown/declared as abandoned/orphan children before the Guardian Court, whereas, it has come on record that the above-named children were not abandoned/Orphan children rather their custody was handed over to Sarim Burney Trust International by their alleged Father. The said modus operandi was applied also in the case of one Noor Hayat Nasir Noorwala. Further, as per Orphan Certificates of M/S. Sarim Burney Trust duly signed/Produced by Humaira Naz Incharge Shelter Home before the FIA and US Embassy Pakistan that the three baby girls in question were orphans and found from outside the gate of M/S Sarim Burney Trust and the trust tried level best to find their parents no person came forward for claiming them, which is contrary with the facts. As per Admission Certificates of M/s. Sarim Burney Trust duly signed/Produced by Humaira Naz Incharge Shelter Home before FIA and US Embassy Pakistan that all the above three baby girls in question were dropped by their Biological parents to the M/s Sarim Burney Welfare Trust, which is contrary.

7. As per the statement of Madiha, Bushra (Bushra had given this statement to M/s Sarim Burney Trust which was

later on produced to FIA by Humaira Naz) and the statement of Afsheen Muhammad Ali (Biological/real mother of Baby Haya Yasir that the said baby girl is the real daughter of Afsheen Muhammad Ali W/o Muhammad Ali, who sold her baby girl to Bushra through Madhia against Rs. 350.000/- (the deal of purchase made between Madhiha and Bushra against Rs.600.000/- however Afsheen received amount of Rs. 350,000/- from Madhiha). The said baby girl was adopted in the garb of purchasing by Bushra Ayaz and Ayaz Khan through Madiha W/o Danish Ali, who was running/operating Ultra Sound /Maternity Clinic at Yousuf Goth, Sujrani Town, Karachi. M/s Sarim Burney Welfare Trust had charged USD 3000/- each (total USD 6000/-) from both US adoptive families in respect of the above-said baby girls (according to Invoices/receipts). However, all the Court Proceedings as well as the production of records before the Family Courts District East Karachi were made by alleged Basalat Ali.

8. The explanation of Section 4 of Prevention of Trafficking Person, Act 2018 **(Act)** provides that **“In this section ‘organized criminal group’ means a structured group of two or more persons, existing for a period of time and acting in concert with the aim of committing any offence under this Act; in order to obtain, directly or indirectly, any financial or other material benefit.”** In the present case, it seems to be that the present applicant Sarim alongwith co-accused Basalat Ali Khan, Mst. Aliya Naheed Malik and Humaira allegedly were running an organized criminal group. The concept of organized criminal group refers to a structured group of individuals who coordinate and engage in illegal activities for financial or material gain. Section 4 of the Act provides punishment up to fourteen years for organized criminal groups.

9. I find it necessary to mention here that the FIA initiated the inquiry No.273/2024 on the receipt of the complaint from the Consulate General of United States of America. Whereas, the Applicant/accused during arguments has failed to show

any malafide or enmity of the Applicant/accused with the Consulate General of United States of America to file fake and fabricated inquiry against the Applicant/ accused. 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.

10. At the bail stage, only a tentative assessment is to be made and a deeper appreciation of the evidence is not permissible under the law. No ill-will or enmity or malafide has been pointed out by the learned counsel for the applicant for false implication in this case. Sufficient material is available on record to connect the present applicant in the commission of the alleged offence. Learned counsel for the applicant failed to make out the case for grant of bail in view of subsection (2) of Section 497 Cr.P.C. Resultantly, the instant bail application is **dismissed**. However, the learned trial Court is directed to expedite the case and conclude the same preferably within a period of 60 days.

11. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

12. These are the reasons of my short order dated 10.02.2025.

JUDGE

Kamran/PA