

IN THE HIGH COURT OF SINDH, AT KARACHI

Crl. Bail Application No.07 of 2025

[Azeem Javed v The State]

Crl. Bail Application No.79 of 2025

[Muhammad Mujeeb v The State]

Crl. Bail Application No.89 of 2025

[Mansoor Karim v The State]

Crl. Bail Application No.102 of 2025

*[Muhammad Shahzaib – Muhammad Waleed, Shabi ul Husnain –
Fakhar ul Zaman and Muhammad Usman v The State]*

Crl. Bail Application No.136 of 2025

[Sohail Ahmed v The State]

Crl. Bail Application No.178 of 2025

[Akhtar Sajjad v The State]

Date

Order with signature of Judge

For hearing of Bail Application.

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21.02.2025.

M/s Muhammad Munsif Jan & Muhammad Imran, Advocates
in Crl. B. Applications 07 & 178 of 2025.
Mian Haad A.M. Paggawala, Advocate in Cr.B.A. No.79 of 2025.
Mr. Raj Ali Wahid Kunwar, Advocate in Crl.B.A. No.89 of 2025.
M/s Shaukat Hayyat, Syed Muhammad Abdul Kabir & Ms.
Amna Magsi, Advocates in Crl. B.A. No.102 of 2025.
Mr. Mumtaz ul Hassan, Advocate in Crl.B.A. No.136 of 2025.
Mr. Irshad Ali, DAG a/w Muhammad Junaid Hasan,
Inspector/I.O. FIA Anti-Corruption Circle, Karachi.

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Shamsuddin Abbasi J. – Having been unsuccessful in securing
bail from the trial Court in Crime No.in Crime No.40 of 2024
registered at Police Station FIA ACC, Karachi, for the offences
punishable under Sections 406, 409 (added through interim charge
sheet), 420, 468, 471 and 109, PPC read with Section 5(2) of PCA,
1947, the applicants have approached this Court for their release on
bail.

2. FIR in this case has been lodged on the basis of an enquiry
conducted by FIA upon receipt of letter from competent authority
containing the names of 17 officers working as Entomologist (BPS-17)

in Department of Plant Protection, who alleged to have issued Phytosanitary Certificates against 46 consignments of rice exported to European Union without fulfilling the legal requirements, which were intercepted at the destination and exports of Pakistani rice to EU countries badly suffered causing a colossal loss to the National Exchequer.

3. It is jointly contended on behalf of the applicants that they are officers in Grade-17, working as Entomologist, in Department of Plant Protection, and have nothing to do with the alleged offence and have been made victim of the circumstances. It is next submitted that the entire responsibilities lie on the exporters, who were under obligations to follow the guidelines issued by the Government of Pakistan, Ministry of National Food Security & Research Department of Plant Protection, through certain circulars especially circular dated 11.07.2024, for management of pesticide residues in Pakistan rice export and ensure self-regulation and provide Maximum Residue Limits (MRL) Aflatoxin traceable reports issued by Eurofins/SGS/Internationality Accredited Laboratory alongwith assurance from SGS/Supply Chain/ International 3rd party agencies confirming the lot's sealing, testing and compliance with EU regulations, which should be communicated via email, following which the authorized officer of DPP will issue the Phytosanitary Certificate, but they have not performed their duties per guidelines. It is also submitted that the applicants have issued Certificates after following the standard procedure as per information and documents provided to them and they were the exporters who were actual beneficiaries, but none of them have been joined as accused in the challan. It is also submitted that the investigating officer has conducted dishonest investigation and extended undue favour to the exporters and no iota of evidence has been collected against the applicants to substantiate their involvement in the commission of alleged offence. It is further argued that the alleged offences fall outside the ambit of prohibitory clause of Section 497, Cr.P.C. The have pointed out that the learned trial Court has rejected the bail pleas of applicant mainly observing that the investigation is in progress and being a premature stage declined bail to the applicants and now the challan has been submitted and the applicants are no

more required for the purpose of any investigation. They are in custody since last about four months and their involvement in the commission of offence is yet to be determined, therefore, pending trial the applicants may be ordered to be released on bail.

4. The learned DAG and investigating officer have opposed the grant of bail to the applicants on the ground that they have issued fake Certificates and extended undue favour to the exporters and due to their illegal and unwarranted acts, not only the country earned bad name amongst EU countries but the National Exchequer also suffered colossal loss, hence the applicants do not deserve to be enlarged on bail.

5. I have heard the arguments of both the sides and perused the entire material available before me with their able assistance.

6. There is no denial of the fact that the applicants are Grade-17 Officers in Department of Plant Protection, serving as Entomologist. Per prosecution case, they have issued Phytosanitary Certificates against 46 consignments of rice, exported to EU, without fulfilling the requisite formalities for wrongful gains as a result of which the country has earned bad name and the National Exchequer has also suffered irreparable losses and injuries. On the other hand, the learned counsel appearing for the applicants emphasized that the applicants have issued Certificates after following the standard procedure as per information and documents provided to them and they have not earned any unlawful gain and it was the responsibility of the exporters, who were bound to follow the guidelines issued by the Government of Pakistan from time to time, they were the actual beneficiaries, but none of them have been arraigned as accused in the interim challan, which shows clear malafide of the investigating officer. Admittedly, the entire case of the prosecution rests on documentary evidence, hence, at this juncture, the genuineness or falsehood of the allegations leveled against the applicants would be determined at trial after recording of the evidence.

7. It is a well settled principle of law that the Court cannot go beyond the facts of the case and has to restrict itself to the material

placed by the prosecution and further for the purpose of disposal of bail application tentative assessment is to be made and no deeper appreciation is allowed. It is also a well settled that in cases where reasonable doubt arises with regard to implication of an accused in a crime he should not be deprived of such benefit even at bail stage. Prima facie reasonable grounds exist to believe that the case of the applicants is fully covered by Section 497(2) Cr.P.C. calling for further inquiry into their guilt. They are in custody since last about four months and the prosecution has not demonstrated that the applicants are likely to abscond or tamper with evidence if released on bail. The interim challan has already been submitted and the applicants are no longer required for investigation, therefore, their continued incarceration serves no purpose. Besides, the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C. and grant of bail in like cases is a rule and refusal thereof is an exception. Bail should be declined only in exceptional cases, which need to be evaluated based on the facts and circumstances of each case. No exceptional circumstances exist in the case in hand to refuse bail to the applicants. Reliance in this behalf may well be made to the case of *Riaz Jafar Natiq v Muhammad Nadeem Dar and others* (2011 SCMR 1708), wherein it was held as under:-

“8. Thus keeping in view the law laid down in the case of Zafar Iqbal v Muhammad Anwar and others” (2009 SCMR 1488) ordaining that grant of bail must be favourably considered and should only be declined in exceptional cases”.

8. I may also add here that the main purpose of keeping an under-trial accused in detention is to secure his attendance at the trial so that the trial is conducted and concluded expeditiously or to protect and safeguard the society, if there is an apprehension of repetition of offence or commission of any other untoward act by the accused. Therefore, in order to make the case of an accused person fall under the exception to the rule of grant of bail in offences not covered by the prohibitory clause of Section 497(1) Cr.P.C. the prosecution has to essentially show from the material available on the record, such circumstances that may frustrate any of the said purposes, if the accused person is released on bail. The Hon’ble Supreme Court in the cases of *Tariq Bashir v The State* (PLD 1995 SC

34), *Zafar Iqbal v Muhammad Anwar* (2009 SCMR 1488) and *Muhammad Tanveer v The State* (PLD 2017 SC 733) has time and again illustrated such circumstances or such conduct of an accused that may bring his case under the exceptions to the rule of granting bail, which include his likelihood of absconsion, tampering with the prosecution evidence or influencing the prosecution witnesses to obstruct the course of justice his repeating the offence keeping in view his previous criminal record or the desperate manner in which he has *prima facie* acted in the commission of offence alleged. A Court which deals with an application for grant of bail in an offence not falling within the prohibitory clause of Section 497(1) Cr.P.C. must apply its judicious mind to the facts and circumstances of the case and to the conduct of the accused and decline to exercise the discretion of granting bail to him in such offence only when it finds any of the above noted circumstances or some other striking circumstance that impinges on the proceedings of the trial or poses a threat or danger to the society, justifying his case within the exception to the rule, as the circumstances mentioned above are not exhaustive and the facts and circumstances of each case are to be evaluated for application of the said principle and following the said principle in the case of *Muhammad Tanveer's* case (supra), held as under:-

“Once this Court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497, Cr.P.C. shall be a rule and refusal shall be an exception, then the Courts of the country should follow this principle in its letter and spirit because principles of law enunciated by this Court are constitutionally binding [under Article 189] on all Courts throughout the country including the Special Tribunals and Special Courts.

9. In the case in hand, the learned trial Court has not mentioned any circumstance that may bring the case of the applicants under the exception of declining bail in offences not falling within the prohibitory clause of Section 497(1) Cr.P.C. nor the learned counsel for the State could show any such circumstance or conduct of the applicants that would bring the case of the applicants under exception to the rule of granting bail in such offences. As noted above guilt of the applicants is yet to be determined at trial. The

investigation has been completed and the interim Challan is submitted and that there are no indication that the applicants either interfere in the investigation or temper with the evidence, therefore, no useful purpose would be served by keeping the applicants in jail.

10. For what has been discussed above, I am of the view that the applicants have been able to make out a case for grant of bail. The bail applications are, therefore, allowed. The applicants shall be released on bail subject to their furnishing solvent surety in the sum of Rs.100,000/- each and execution of P.R. Bonds in the like amount to the satisfaction of learned trial Court. It is, however, need not to state that the observations recorded herein above are of tentative assessment and meant for the purpose of the instant bail application, therefore, the learned trial Court shall not be influenced in any manner whatsoever while deciding the case on merits.

JUDGE

Naeem /PA