

THE HIGH COURT OF SINDH AT KARACHI

Spl. Cr. Bail Application No. 194 of 2025

Applicants : i. Muhammad Rafiq Khanani
ii. Muhammad Nasir Khatri
iii. Saeedullah
iv. Naveed Aslam and
v. Irfan
through M/s. Hassaan Sabir and Sana
Abid, Advocates.

The State : Syed Bashir Hussain Shah, Assistant
Attorney General for Pakistan along
with Muhammad Saleem, I.O.

Date of hearing : 31-07-2025

Date of decision : 31-07-2025

*FIR No. 19/2025
Under Clauses (8) and (89) of Section 156(1) of
the Customs Act, 1969 r/w section 5/23 FER
(Amendment) Act, 2020*

ORDER

Adnan Iqbal Chaudhry J. - The Applicants seek post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by a common order dated 14.07.2025.

2. Heard learned counsel and perused the record.

3. A raid was conducted by the FIA at three premises at a local gold market/building on suspicion that smuggled gold was being traded thereat. From the first premises the FIA seized cash, 11 pieces of gold bars of 10 tola each and a register of trades; and from the other two premises they seized further cash and registers of trade. Applicants 1, 2 and 4 were arrested from the first premises, respectively as the cashier, dealer and manager of the premises. Applicant No.3 was arrested carrying on business at the third premises, and Applicant No.5 was arrested from the entrance of the building carrying cash which he allegedly received from the first

premises against trades in gold. Per the FIR, the arrested persons disclosed that the owners of the gold business run through said premises were Muhammad Saleem alias Saleem Baba and Abdul Basit Akbani. From the gold and documents seized, the raiding party deduced that the gold traded at said premises was smuggled and the proceeds of trades were being remitted abroad through hawala and hundi. Therefore, the Applicants along with said Muhammad Saleem alias Saleem Baba and Abdul Basit Akbani were all booked for the offence of smuggling gold as defined in section 2(s) of the Customs Act, 1969, and for offences under the Foreign Exchange Regulations Act, 1947 **[FERA]** for remitting money abroad through unauthorized channels.

4. For offences alleged under the FERA, a separate challan was submitted before the concerned District and Sessions Judge who granted bail to the Applicants 3, 4, and 5. This bail application is therefore confined only for offences alleged in the FIR under the Customs Act.

5. The allegation appears to be that gold that is smuggled into Pakistan is melted into gold bars and then embossed with the words 'Karachi Bullion Exchange' to hide the offence of smuggling; and that the Applicants and the co-accused are engaged in the trading of such gold bars.

6. The seizure of gold bars and documents has been made from a public place viz. a local gold market where gold is freely traded, not from any concealed place of business. The seized gold bars are inscribed with the words 'Karachi Bullion Exchange', not with any inscription to denote foreign-origin. Therefore, the evidence thus far does not suggest that the seized gold may have been smuggled into Pakistan. The allegation that the seized gold bars were in fact made by melting smuggled gold has a long way to go before it can be proved. Learned Prosecutor submitted that smuggling can be inferred from the documents seized and WhatsApp messages retrieved from

cellphones of the Applicants. However, again, that makes a case of further inquiry against the Applicants which falls within the ambit of sub-section (2) of section 497 Cr.P.C.

7. The Applicants 1 to 4 do not appear to be gold traders themselves, but employees of gold traders who were arrested from the trading premises. The Applicant No.5 also appears to be an investor in gold and not a trader himself. Therefore, there is force in the submission of their counsel that even if the offence of smuggling is eventually established, the case against the Applicants would at best attract punishment under clause 89 of section 156(1) of the Customs Act, where the maximum term of imprisonment does not exceed six years. In other words, the case alleged against the Applicants does not fall within the prohibitory clause of section 497 Cr.P.C.

8. In view of the foregoing, the Applicants namely, Muhammad Rafiq Khanani, Muhammad Nasir Khatri, Saeedullah, Naveed Aslam and Irfan, are granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 300,000/- [Rupees Three Hundred Thousand only] each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that the observations herein are tentative, and shall not be construed to prejudice the case of either side at trial.

JUDGE

Karachi
Dated: 31-07-2025

**PS/SADAM*