

THE HIGH COURT OF SINDH AT KARACHI

Spl. Cr. Bail Application No. 230 of 2025

Applicant : Shahid Ahmed son of Qaseem-u-ddin
through Mr. Aqil Ahmed, Advocate.

The State : Mr. Farooq Hashmat Abbasi, Special
Prosecutor Customs along with I.O. of
the case namely, Amjad.

Date of hearing : 25-08-2025

Date of decision : 25-08-2025

*FIR No. P-1655/2025-JIAP
u/s: 2(s), 16, 17 and 139(3) of Customs Act, 1969
punishable under clauses 8 & 70
of section 156(1) of the Act
P.S. Collectorate of Customs Airports, Karachi*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant seeks post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by order dated 05.08.2025.

2. On 21.06.2025, the Applicant arrived at Jinnah International Airport, Karachi on a flight from Dubai. He was allegedly diverted by the Customs from the green channel to the red channel. A baggage search returned 2 laptops and 50 kgs of avocados. Upon a personal search he was found carrying in a purse in his pocket diamond and gold jewelry with attached price tags in AED. Value of the jewelry in Pakistan was estimated at Rs. 23,894,465/-. Total value of the goods carried by the Applicant were estimated at Rs. 24,224,172/-. Since the Applicant did not declare the goods to the Customs and attempted to smuggle them into Pakistan, he was arrested and booked for the offence of smuggling as defined in section 2(s) of the Customs Act, 1969 [Act], punishable under clause (8)(iii)(e) of section 156(1) of the Act, and for failing to make the requisite declaration of goods as per

section 139 of the Act, an offence punishable under clause (70)(iii)(d) of section 156(1) of the Act.

3. It is submitted by learned counsel for the Applicant that he had intended to declare the goods and did not attempt to exit through the green channel; rather he was intercepted by the Customs before he could approach the red channel; that he was never provided a declaration form for goods carried by him nor asked to make a verbal declaration as per section 139 of the Customs Act, 1969. Learned counsel further submits that at his request the Special Judge had called the CCTV footage of the arrival lounge of JIAP which would reveal that the Applicant did not attempt to exist from the green channel, but such footage was not examined by the Judge.

4. Learned Special Prosecutor acknowledges that the Applicant was not provided a declaration form, however, submits that before the search was carried out, the Applicant was given an opportunity to make a verbal declaration of goods as per section 139 of the Act, but he did not make such declaration.

5. Heard learned counsel and perused the record.

6. Learned Special Prosecutor acknowledges that the Customs Declaration Form prescribed by Rule 7-A of the Baggage Rules, 2006 (SRO No. 666(1)/2006 as amended from time to time) was not furnished to the Applicant upon arrival. The question is whether he was given the opportunity to make a verbal declaration of the same as envisaged in section 139 of the Act. The contention of the Applicant is that he was not provided such opportunity before being searched, otherwise he intended to declare the goods.

7. The laptops and avocados seized from the Applicant's baggage were not concealed, nor could those be concealed in the baggage given their volume/size. The jewelry seized from the Applicant's person was from a purse in his pocket and it does not appear that he intended to conceal the same. Given these circumstances, the

submission that the Applicant intended to declare the goods but was intercepted and searched before he could do so, requires evidence and cannot be ruled out at this stage. As observed in the case of *Ferozur Rahman Batla v. The State* (1980 PCrLJ 663), a passenger must be given an opportunity to make a declaration of goods.

8. In circumstances discussed above, where the intention to smuggle goods has yet to be ascertained, the case against the Applicant for committing the offence under section 2(s) of the Act is one of further inquiry falling within the ambit of sub-section (2) of section 497 Cr.P.C. As regards the offence alleged to be committed under section 139 of the Act, the maximum term of imprisonment provided therefor under clause (70)(iii)(d) of section 156(1) of the Act is three years, which does not fall within the prohibitory clause of section 497 Cr.P.C.

9. For the foregoing reasons, the Applicant Shahid Ahmed son of Qaseem-u-ddin is granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs.1,000,000/- [Rupees One Million only] 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: 25-08-2025

*PS/SADAM