

THE HIGH COURT OF SINDH AT KARACHI

Spl. Cr. Bail Application No. 119 of 2025

Applicants : Nasir Khan son of Abdul Rehman and
Bebarg Khan son of Aziz Ullah
through Mr. Muhammad Iqbal Riaz,
Advocate.

The State : Through Mr. Khalilullah Jakhro,
Advocate.

Mr. Muhammad Khalid Javed Raan,
Deputy Attorney General for Pakistan.

Date of hearing : 29-05-2025

Date of decision : 29-05-2025

*FIR No. 08/2024-25
U/s: 2(s), 16 and 157 of the Customs Act,
1969 punishable under clauses (8) and (89)
Of section 156(1) of the Act ibid
P.S. Collectorate of Customs Enforcement, Hyd.*

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 a common order dated 22.04.2025.

2. Heard learned counsel and perused the record.

3. The FIR is that a team of the Collectorate of Customs Enforcement, Hyderabad stopped a LPG bowser at a check-post on 28.03.2025; that the driver was not able to show any documents for transporting LPG; that a search of the bowser revealed that it was instead carrying foreign-origin high speed diesel; the bowser and the diesel were therefore seized.

4. It is submitted on behalf of the Applicants that neither of them was the driver or passenger of the bowser; that they were in fact waiters employed at Al-Madina Hotel, Naushero Feroze, where the bowser was parked; that the driver of the bowser had in fact fled

upon seeing the Customs officers and the Applicants were arrested on the suspicion that they were the ones who were in the cabin of the bowser.

5. Though row No. 5 of the FIR mentions the Applicants as arrested, the FIR does not disclose from where they were arrested. Though the FIR states that the driver of the bowser was asked for documents, it does not state which of the Applicants was the driver. In fact, the FIR does not even say that the driver of the bowser was arrested. There is no investigation by the I.O. into the Applicants' version that they are waiters at Al-Madina Hotel. Therefore, the Applicant's version that they were arrested on a misconception makes it a case of further inquiry falling within the ambit of sub-section (2) of section 497 Cr.P.C.

6. For the foregoing reasons, the Applicants Faiz Nasir Khan and Bebarq Khan are granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs.200,000/- [Rupees Two 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: 29-05-2025

**PA/SADAM*