

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. S-3256 of 2025
(Muhammad Hassan Raza Versus the State)

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of Bail application

11.12.2025

Mr. Israr Ahmed Advocate, along with Applicant Muhammad Hassan Raza having CNIC No. 42201-0613813-7
Complainant Hafiz Muhamamd Tanveer present in person
Mr. Mohsin Kadir Shahwani, Additional Attorney General for Pakistan.
Mr. R. D. Kalhor, Assistant Attorney General.
Mr. Muntazir Mehdi, Director FIA
SIP Rafia Altaf, Investigation Officer.

Ali Haider ‘Ada’ J.:-Through the instant bail application, the Applicant seeks post-arrest bail in FIR No. 141 of 2024, registered under Sections 420 and 406 PPC at FIA AHT Circle, Karachi. Earlier, the Applicant approached the XIII Additional Sessions Judge, Karachi East, where his bail application was dismissed vide order dated 26.05.2025.

2. The Complainant, a travel agent, lodged the FIR on 02.07.2024, although the alleged occurrence is shown from January 2023 onwards. The Complainant stated that he was engaged in the business of a travel agency and had a prior arrangement with the Applicant, who provided visa-related services. Acting in good faith, the Complainant entrusted the Applicant with the work relating to Umrah visa processing. The Applicant allegedly provided tickets, visas, and hotel bookings which, upon verification, were found to be fake. Despite all efforts to rectify the matter, the Complainant had no option but to lodge the FIR.

3. The Applicant previously filed Bail Application No. 1399 of 2025 before this Court, which was dismissed due to non-prosecution. The instant application has been filed on the ground that the Applicant was unable to attend Court earlier due to a medical condition, namely a history of fistula surgery, and that there was no bona fide error on his part.

4. Learned counsel for the Applicant submits that there is an inordinate delay of over two years and ten months in lodging the FIR. It is further submitted that out of a total of twenty travelers, fifteen had already been provided the promised services, which fact has been admitted in the FIR itself. Learned counsel contends that the Applicant has

committed no offence and that a jurisdictional error exists, as the FIA has no authority over what is essentially a private dispute between two parties.

5. On the other hand, Mr. Mohsin Kadir Shahwani, Additional Attorney General, submits that prima facie statements recorded under Section 161 Cr.P.C. implicate the Applicant. It is further contended that the Applicant is a habitual offender, with almost seven FIRs already registered against him, details of which have been placed before the Court. He submits that the offence relates to breach of trust and, while bail is not a matter of right under the prohibitory clause, in exceptional circumstances it may be considered, yet the Applicant is not entitled to such concession in the present case. Regarding the question of jurisdiction, he submits that the Investigating Officer intends to file a Supplementary Challan and the Director FIA is present in Court, and it remains unclear whether the acts of the Applicant fall within the ambit of the Travel Agency Act, which is not a scheduled offence under FIA's jurisdiction.

6. On the last date, learned counsel for the Complainant already argued that the fraud had been committed, and today the Complainant is present in person and submits that the Applicant has committed an offence of breach of trust and is not entitled to pre-arrest bail, which is an extraordinary relief.

7. Heard and perused the available record.

8. First and foremost, it is apparent that the present matter involves a dispute between the Complainant, who himself is a travel agent operating under the name and style of "Aamina Travel & Tours," and the Applicant. As the Complainant is running a travel agency, any grievance arising from a traveler's dissatisfaction would ordinarily fall within the scope of the Travel Agencies Act, 1976, allowing the traveler to complain directly against the travel agency. However, in the present case, there is no complaint from any traveler against the travel agency means against the complainant or the applicant. On the contrary, the Complainant himself, as admitted in the FIR, provided documents and entrusted the Applicant with certain responsibilities.

9. The alleged occurrence is stated to have taken place from January 2023 onwards, yet the FIR was lodged on 02.07.2024, resulting in an inordinate delay of more than two year. Such delay, in the context of criminal law, raises serious doubts regarding the credibility and veracity of the prosecution's case. The principle has been consistently recognized by the Superior Courts, wherein unexplained or excessive delay in filing an FIR has been considered as a factor undermining the prosecution's version. For instance, in ***Mazhar Ali v. The State* (2025 SCMR 318)** and ***Ahmad Nawaz and another v. The State and another* (2024 SCMR 1525)**, the Hon'ble Supreme Court observed that

significant delays in lodging FIRs may cast serious doubts on the genuineness of the allegations and require careful scrutiny before proceeding further.

10. In the present matter, considering that the Complainant himself, being a travel agent, entrusted documents to the Applicant, coupled with the delay of more than two year and a half in lodging the FIR, the prosecution case, at this stage, appears to be tainted with considerable doubt. These facts are relevant while considering the discretionary relief of bail, particularly when the matter involves allegations of breach of trust in a commercial setting pertaining to a travel agency.

11. Furthermore, out of a total of twenty travelers, fifteen travelers were provided with the arrangements as claimed. No contrary evidence or submissions have been placed on record by the Complainant to suggest that the documents or services provided to these fifteen travelers were manipulated or otherwise defective. The veracity of these claims can be properly examined and determined at the time of trial.

12. It is well settled that, in matters of bail, it is better to err on the side of granting bail rather than refusing it, because any potential harm caused by the grant of bail can be rectified at the stage of conviction and sentencing. Reliance is placed upon the judgment in ***Ahmad Nawaz and another v. The State and another* (2024 SCMR 1525)**.

13. It is a well-established principle that the mere pendency of a criminal case does not disentitle an accused from seeking the concession of bail. The Hon'ble Supreme Court, in ***Qurban Ali v. The State* (2017 SCMR 279)**, emphasized that the pendency of proceedings alone cannot bar the grant of bail.

14. Furthermore, if the alleged offences do not fall within the ambit of the prohibitory clause, the general principle in criminal jurisprudence is that bail, rather than pre-trial detention, should be the norm. Exceptional circumstances may justify temporary detention, but such circumstances must be clear, concrete, and persuasive. This principle has been consistently reaffirmed in numerous judgments of the Hon'ble Supreme Court, including ***Muhammad Tanveer v. The State and another* (PLD 2017 Supreme Court 733)**, ***Tariq Bashir and 5 others v. The State* (PLD 1995 Supreme Court 34)**, ***Arsalan Masih and others v. The State and others* (2019 SCMR 1152)**, and ***Dr. Abdul Rauf v. The State through D.A.G.* (2020 SCMR 1258)**.

15. The rationale underlying these decisions is that bail is a protective measure that safeguards personal liberty, and any potential harm resulting from the grant of bail can be rectified at the stage of trial or sentencing. Therefore, in cases where the allegations do

not indicate a clear and immediate threat to public order, or where the prosecution's case is not free from doubt, the Court may exercise its discretion in favour of bail.

16. It is well recognized that no useful purpose is served if an accused is remanded to jail only to be granted bail at a later stage. Since the life and liberty of an individual are involved, the Court must be mindful of protecting these fundamental rights. Where an accused is otherwise entitled to post-arrest bail, such extraordinary relief may appropriately be extended under the provisions of Section 498, Cr.P.C, as well as in the form of pre-arrest bail. Reliance in this regard is placed upon **Naeem Qadir Sheikh and another v. The State and others (2022 SCMR 2068)** and **Muhammad Ramzan v. Zafarullah (1986 SCMR 1380)**.

17. Regarding the question of jurisdictional error, it has been consistently held that a challenge to jurisdiction constitutes a valid ground for the grant of bail. A Division Bench of the Peshawar High Court, in **Manzar Khan v. National Accountability Bureau through Chairman NAB, Islamabad and 2 others (2020 P.Cr.L.J. 136)**, observed that where a jurisdictional defect exists, the same has always been taken as a good ground for the grant of bail, as held that:

14. Whenever there is a serious question regarding the jurisdiction of an investigating agency, same has always been taken as a good ground for grant of bail. Arrest of an accused person is made because of authorization of investigation by NAB. If the investigation is authorized in a way that a mandatory condition precedent is ignored then the arrest and ensuing judicial custody also becomes questionable. Though it's final effect and impact is yet to be adjudged by the Accountability Court, but the fact that these serious questions are floating on record, entitle the accused-petitioner to the grant of bail. Such grounds have been treated inter alia by this Court in the case of "Abdul Waheed Khan v. Chairman, NAB and 4 others" reported as PLD 2018 Peshawar 59, as a good ground for grant of bail as well as by the Hon'ble Lahore High Court in the cases of "Muhammad Fakhar Javed Khokhar and another v. NAB and others" reported as 2018 PCr.LJ 477 and "Zahid Ali Noor v. NAB and others" reported as 2017 PCr.LJ 147. The Hon'ble Supreme Court of Pakistan has also treated this ground as one of the grounds for releasing the accused on bail in the case of Rafiq Haji Usman v. NAB cited above.

18. In view of the foregoing facts and circumstances, the pre-arrest bail already granted to the Applicant by this Court vide order dated 28.11.2025 is hereby confirmed on the same terms and conditions. Accordingly, the instant Criminal Bail Application stands disposed of in the above terms.

JUDGE