

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-5470 of 2025
(Muhammad Hashim v Federation of Pakistan & others)

DATE	ORDER WITH SIGNATURE OF JUDGE
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 29.01.2026

Mr. Munsif Jan, Advocate, along with Mr. Imran Ahmed, Advocate for the Petitioner.

Mr. Abdul Samad, Advocate for NADRA

Sardar Zafar Hussain, Advocate for Respondents No.3 and 4.

ADNAN-UL-KARIM MEMON, J:- This petition under Article 199 of the Constitution Islamic Republic of Pakistan, 1973, has been filed by the Petitioner/Muhammad Hashim, who has sought the following reliefs:

A. To grant two months protective bail to the petitioner, namely Muhammad Hashim S/o Habibi Ur Rehman in FIR No.02/2022/File No.SI/Misc/30-2022-VII under section 16, 32, 79 & 192 of the Customs Act, 1969 R/w Import and Export Control Act, 1950 punishable under clause 1, 9, 14 & 86 of Section 156 (1) of the Customs Act, 1969 R/w Import Policy Order 2020 registered at Office of the Collectorate of Customs Appraisement (West), Custom House, Karachi.

B. To direct to the NADRA to unblock the CNIC No.13504-8737112-3 of the petitioner, he could travel from Dubai to Pakistan, and he could appear before the Learned Trial Court.

C. To direct to the respondent No.5 to renew the passport of the petitioner bearing No.BN6841122.

D. To direct to the respondents not to arrest the petitioner at the time of arrival at Karachi Airport.

E. Any other relief or reliefs which this Honorable Court may deem fit and proper in the circumstances of the case.

2. Learned counsel for the petitioner submits that the petitioner is presently employed and residing in Dubai, UAE, and has executed a Special Power of Attorney from abroad. It is submitted that an FIR bearing No.02/2022 dated 12-03-2022 was registered by Respondent No.3 under the Customs Act, 1969, read with the Import and Export Control Act, 1950, wherein the petitioner's name was shown in Column No.4, even though the petitioner has no nexus with the alleged offence and has been implicated with mala fide intention. It is further submitted that the petitioner had no knowledge of the registration of the said FIR as he was abroad, and due to his non-appearance, the learned Special Judge (Customs, Taxation & Anti-Smuggling-II), Karachi, vide order dated 11-07-

2025, declared him an absconder and consequently his CNIC was blocked. The petitioner intends to return to Pakistan to surrender before the learned Trial Court to face the trial and seek protective bail; however, due to the blocking of his CNIC and non-renewal of his passport, he is unable to travel, and there exists a genuine apprehension of his arrest upon arrival. Learned counsel submits that the petitioner is neither a previous convict nor a hardened criminal, and undertakes that he shall not abscond or tamper with the prosecution evidence. It is contended that the actions of the respondents have infringed the fundamental rights of the petitioner as guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973, leaving him with no alternative efficacious remedy except to invoke the constitutional jurisdiction of this Court. It is lastly submitted that unless transitory protective/transitory bail is granted and necessary directions are issued for unblocking of the petitioner's CNIC and renewal of his passport, the petitioner will suffer irreparable loss and humiliation, and will be deprived of the opportunity to appear before the learned Trial Court to defend himself. He prayed to allow this petition.

3. Despite directions dated 26.01.2026, the Investigating Officer and learned DAG are absent. Learned counsel for the Customs Department raises an objection regarding maintainability of the petition, contending that the Petitioner has been an absconder since 2022, in the subject crime and as such, he is not entitled to transitory bail in the matter, at this stage, we confronted him that petitioner intends to put his appearance before the trial court to face the trial. However he insisted for dismissal of bail.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The Petitioner, through his Attorney, has filed the present petition under Article 199 of the Constitution seeking two months' transitory/protective bail in FIR No.02/2022/File No.SI/Misc/30-2022-VII registered under Sections 16, 32, 79 & 192 of the Customs Act, 1969 read with the Import and Export Control Act, 1950, punishable under clauses 1, 9, 14 & 86 of Section 156(1) of the Customs Act, 1969 read with Import Policy Order, 2020, at the Collectorate of Customs Appraisement (West), Karachi. He also seeks directions for unblocking his CNIC No.13504-8737112-3 and renewal of passport No.BN6841122 to facilitate his travel from Dubai to Pakistan to surrender before the trial Court.

6. It is established principles of criminal jurisprudence that under Article 199 of the Constitution, which empowers this Court to protect the fundamental

rights of an individual, even the under trial accused including the right to personal liberty and fair trial. In such matters, granting protective transitory bail in such circumstances, which ensures that the Petitioner is legally required to appear before the competent court, where his case is pending, without unnecessary obstruction, while safeguarding the interest of justice. Prima facie the contention of the learned counsel representing the respondents are untenable under the law as such discarded. However the observation recorded is tentative in nature.

7. Without touching the merits of the case and in view of the Petitioner's bona fide intention to surrender, he is granted transitory/ protective bail for two weeks from today, subject to his furnishing solvent surety of Rs.500,000/- and a P.R. bond in the like amount to the satisfaction of the Nazir of this Court. This order shall remain operative until **11.02.2026**, or until the Petitioner surrenders before the trial Court, whichever is earlier. Meanwhile, the respondents shall complete the necessary formalities, as required under the law, allowing the petitioner to surrender to the trial court, and his passport after its renewal shall be surrendered immediately upon his arrival, in trial court.

8. The petition is accordingly disposed of in the above terms. A copy of this order shall be forwarded to the respondents for compliance.

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Farooq