IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Appln. No. 2853 of 2025.

Applicant	:	Mohammad Akbar through M/s.Hafiz Abdul Rahim Abid and Muhammad Masood Khan Subakhani, Advocates.
Respondent	:	The State through Mr.Bashir Hussain Shah, Asstt: A.G a/w SIP/I.O Zakir Hussain, FiA SBC, Karachi
Date of hearing	:	08.12.2025.
Date of order	:	22.01.2026.

O R D E R.

TASNEEM SULTANA-J.:- Through this application under Section 497, Cr.P.C., the applicant Muhammad Akbar seeks post-arrest bail in Crime/FIR No.21/2025 registered at Police Station FIA, State Bank Circle, Karachi, under Sections 4/5/23 of the Foreign Exchange Regulation Act, 1947 read with Section 109 PPC. Having been rejected his post arrest bail application NO.4507 of 2025 by learned Sessions Judge, Malir Karachi vide order dated 13.10.2025, hence this bail application for the same relief.

2. Brief facts of the prosecution case are that consequent upon receipt of credible information regarding illegal foreign exchange dealings and Hawala/Hundi activities, Enquiry No.29/2025 dated 21.09.2025 was registered and a raiding party of FIA, State Bank Circle, Karachi, was constituted under the supervision of Sub-Inspector Zakir Hussain. It is alleged that the raiding party reached at Shop in Qaleen Gali, Block-C, Al-Asif Square, Sohrab Goth, Karachi, where the applicant Muhammad Akbar , Afghan National, was found present at his premises. Upon introduction and identification, he was questioned regarding the nature of business and the requisite license/permission for sale/purchase of foreign exchange and foreign remittance, whereupon he allegedly admitted that he had been dealing in sale/purchase of foreign exchange and Hawala/Hundi but failed to produce any lawful authority or license from the competent forum.

3. It is further alleged that search of the premises resulted in recovery of Pak Rupees 15,00,000/-, and foreign currency comprising US Dollars 13,000; Omani Riyal 317; Euro 35; UAE Dirhams 1,556; Saudi Riyal 8,000; Chinese Yuan 305; Yemeni Riyal 1,000; Indonesian

Rs. 7,000; Iranian Riyal 4 Million; Canadian Dollars 100; UK Pounds 05; Turkish Lira 30; Iraqi Dinar 3,850; Afghani Currency 174,610; Indian Rs. 10; Polish Currency 10; Argentine Currency 20; Egyptian Pounds 10; and Ethiopian Birr 01, along with coins of different foreign currencies in plastic jars and 05 Android mobile phones, which were seized through memo dated 21.09.2025. It is alleged that effort was made to procure an independent witness from the neighbourhood under Section 103 Cr.P.C., however, one Hassan, running a milk shop, refused to become a witness. Thereafter, the applicant was brought to Police Station and subjected to interrogation, where he allegedly disclosed that he is an Afghan national, permanent resident of Kunduz, Afghanistan, holding Afghan PoR Card No. EB 31413580872, and presently residing at Al-Asif Square, Sohrab Goth, Karachi, and that he had been conducting the alleged activities for about 07 years, mostly relating to Afghanistan. Hence, FIR was registered and the applicant was arrested.

4. Learned counsel for the applicant contended that the applicant has been falsely implicated with malafide intention and ulterior motives; that he is not engaged in any illegal foreign exchange business and is, in fact, running a cloth-related business; that the prosecution version is self-made and engineered; that no independent private witness from the locality was associated at the time of raid and recovery, which is in violation of Section 103 Cr.P.C.; that the alleged offences under Sections 4 and 5 of the Foreign Exchange Regulation Act, 1947 require strict fulfilment of essential ingredients; that the applicant has legal documents of stay; that the matter requires further inquiry; and that the applicant is ready to furnish surety to the satisfaction of the Court.

5. Conversely, learned representative for the State/FIA has opposed the application and contends that the applicant was apprehended during raid; that huge quantity of Pakistani and foreign currency, coins and mobile phones were recovered from his premises; that the applicant admitted involvement in sale/purchase of foreign exchange and Hawala/Hundi; that statements of prosecution witnesses have been recorded under Section 161 Cr.P.C.; that counterparties were identified and notices under Section 160 Cr.P.C. were issued and one witness has appeared and confirmed receipt of Hawala/Hundi money from the applicant; that the investigation is still in progress and forensic analysis of electronic equipment/mobile phones is yet to be obtained; therefore, the applicant does not deserve the concession of bail.

6. Heard. Record perused.

7. The allegation against the applicant, as emerging from the F.I.R. and the material placed on record, is that he was found present at the premises during raid and that substantial quantity of Pakistani currency and foreign currencies of various countries, along with other articles, were recovered and seized from the place, and that the applicant failed to produce any licence or authorization from the competent authority to conduct sale/purchase of foreign exchange and foreign remittance, and allegedly admitted his involvement in the said activities.

8. At the outset, it may be observed that the case is triable under the Foreign Exchange Regulation Act, 1947, and the alleged offences fall within the non-prohibitory clause of Section 497, Cr.P.C.; therefore, the settled principle of law is that the concession of bail is to be withheld only where exceptional grounds are available on record, such as likelihood of abscondence, tampering with prosecution evidence, or where the accused appears, prima facie, to be guilty of the charge in a manner that renders release on bail hazardous to the administration of justice.

9. At bail stage, this Court is not required to conduct a mini trial, nor to make a conclusive determination on merits; rather, the Court is to examine, on tentative assessment, whether the accusations, the quality of the material collected, and the attending circumstances, justify continued incarceration, or whether the case calls for further inquiry. In the present matter, the prosecution version substantially hinges upon the raid proceedings, seizure memo, and the statements of official witnesses under Section 161 Cr.P.C. The alleged recovery, though significant in quantity, is yet to be tested through admissible evidence during trial, particularly with regard to the source, ownership, intended transaction, the linkage of the seized currencies and electronic devices with any prohibited dealing within the meaning of Sections 4 and 5 of the Act.

10. It further appears that no private independent person from the locality is shown to have been associated at the time of raid and recovery. Though the prosecution has taken the stance that an attempt was made and a person refused, such aspect, along with the manner of conducting the raid and preparation of memos, is a matter which calls for judicial scrutiny at trial. At this stage, the absence of independent corroboration, coupled with the fact that the entire recovery is attributed through official witnesses, is a circumstance which cannot be ignored while considering the question of bail in non-prohibitory offences.

11. It is also a matter of record that the investigation is stated to be in progress and the prosecution itself has sought further time for completion of investigation, including collection of documentary/oral evidence and forensic analysis of seized mobile phones/electronic devices. Such position, prima facie, indicates that the prosecution case is still unfolding, and the evidentiary worth of the alleged electronic material and the alleged network of transactions is yet to crystallize through expert opinion and admissible record. In these circumstances, continued incarceration of the applicant for an indefinite period, before the prosecution completes the foundational requirements of investigation, may not be warranted.

12. The defence plea that the applicant is not engaged in the alleged business and that he has been falsely implicated is, of course, a matter of evidence; however, even the prosecution stance regarding "admission" attributed to the applicant, and the legal implications thereof, requires determination by the trial Court in accordance with law. Thus, the controversies raised on both sides demonstrate that the matter calls for further inquiry, particularly when the prosecution itself is relying upon pending forensic confirmation and further collection of evidence.

13. It is well settled that, at the stage of granting bail, the Court need not engage in a detailed examination of the evidence but must only ascertain whether there are reasonable grounds to believe that the accused is guilty of the offence alleged. As held in **Muhammad Sarfraz Ansari v. The State (PLD 2021 SC 738**), at the bail stage, the Court must be satisfied that there is prima facie material, which if left unrebutted, could lead to a finding of guilt. The offence with which the applicant is charged under the Foreign Exchange Regulation Act (FERA) carries a maximum sentence of up to five years. Although the offence is non-bailable, it does not fall within the prohibitory clause of Section 497(1) Cr.P.C. Reliance is also placed on the case of **Zaigham Ashraf v. The State and others (2016 SCMR 18),** it has been held by honourable Supreme Court as under:

> "To curtail the liberty of a person is a serious step in law, therefore, the Judges shall apply judicial mind with deep thought for reaching at a fair and proper conclusion albeit tentatively however, this exercise shall not to be carried out in vacuum or in a flimsy or causal manner as that will defeat the ends of justice because if the accused charge, is ultimately acquitted at the trial then no reparation or compensation can be awarded to him for the long incarceration, as the provisions of Criminal Procedure Code and the scheme of law on the subject do not provide for such arrangements to repair the loss,

caused to an accused person, detaining him in jail without just cause and reasonable ground."

14. Consequently, this bail application is allowed and the applicant is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. The applicant shall attend the trial regularly and shall not misuse the concession of bail; in case of default, misuse, or non-cooperation, the trial Court shall be at liberty to proceed in accordance with law, including cancellation of bail.

This order is passed on tentative assessment of the material available on record and shall not prejudice the case of either party at trial.

JUDGE

Shabir/PS