

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.716 of 2026

Applicant : Amir son of Siddique Hussain, through Mr. Irshad Khan Yousufzai, Advocate.

Respondent : The State through Mr. Khaleeq Ahmed, D.A.G.

Date of hearing : 25.05.2026.

Date of order : 25.05.2026.

O R D E R

TASNEEM SULTANA, J.— Through this criminal bail application, applicant Amir seeks post-arrest bail in Crime No.278 of 2025, registered under Sections 3(2), 13 and 14 of the Foreigners Act, 1946, read with Sections 420, 468, 471 and 109, P.P.C., at Police Station F.I.A., A.H.T.C., Karachi. Earlier, his Bail Application No.4128 of 2025 was dismissed by the learned Sessions Judge, Malir, Karachi, vide order dated 11.02.2026; hence, the instant application for the same concession.

2. Brief facts of the prosecution case, are that the applicant, along with other persons, was deported from the Kingdom of Saudi Arabia on the night intervening 22nd and 23rd August 2025, on Emergency Passport No.55996636, purportedly issued on 07.06.2023 by the Consulate General of Pakistan, Jeddah, Kingdom of Saudi Arabia. Upon his arrival at Jinnah International Airport, Karachi, the said Emergency Passport was suspected to be forged during immigration clearance, while the nationality of the deportees was also found doubtful. Consequently, after completion of the enquiry, the applicant and others were arrested and the present F.I.R. was lodged.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the present case with mala fide intention; that he is a Pakistani national and his parents also possess valid C.N.I.Cs. and passports, with their particulars duly reflected in the NADRA record; that the applicant had no knowledge that the Emergency Passport was allegedly forged and neither prepared nor procured the said document; that nothing incriminating has been recovered from his possession; that the material collected during investigation does not connect him with the alleged offences under Sections 420, 468, 471 and 109, P.P.C.; that co-accused Ibrahim and Muhammad Rasheed, standing on the same footing, have already been granted bail by the learned Sessions Judge, Malir, Karachi; that the applicant is, therefore, entitled to the same concession under the rule of consistency;

that he has remained in custody since his arrest; that the investigation has been completed and his further detention is not required for investigative purposes; and that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

4. Conversely, learned D.A.G. opposed the application and submitted that the applicant had entered Pakistan on a forged Emergency Passport; that under Section 9 of the Foreigners Act, 1946, the burden lies upon the applicant to establish his lawful status and nationality; and that the offences alleged against him fall within the prohibitory clause of Section 497, Cr.P.C.

5. Heard. Record perused.

6. A tentative assessment of the available record reflects that the prosecution case primarily rests upon documentary material relating to the nationality of the applicant and the genuineness of the Emergency Passport allegedly used by him. The applicant claims to be a Pakistani national and has relied upon the C.N.I.C(s). and passports of his parents in support of such claim. The authenticity, evidentiary value and effect of these documents require proper verification and evaluation during trial. Whether the material relied upon by the applicant establishes his Pakistani nationality or otherwise excludes the applicability of the Foreigners Act, 1946, is a mixed question of law and fact that cannot be conclusively determined at the bail stage.

7. The offences under Sections 420 and 471, P.P.C. are bailable, whereas the offence under Section 468, P.P.C., though non-bailable, is punishable with imprisonment extending up to seven years and does not fall within the prohibitory clause of Section 497(1), Cr.P.C. The applicability of Section 109, P.P.C. would depend upon proof of the applicant's participation in, or abetment of, the alleged offences. At this stage, the material available on record is not sufficient to constitute reasonable grounds for believing that the applicant committed the alleged offences; rather, sufficient grounds exist for further inquiry into his guilt within the meaning of Section 497(2), Cr.P.C. Guidance in this regard may be derived from *Muhammad Sarfraz Ansari v. The State* (PLD 2021 SC 738) and *Malik Muhammad Tahir v. The State and another* (2022 SCMR 2040).

8. Insofar as the offences under Sections 3(2), 13 and 14 of the Foreigners Act, 1946, are concerned, their applicability to the applicant is yet to be determined after recording and evaluating the evidence regarding his nationality and the documents relied upon by the respective parties. In *Haji Wali Muhammad v. The State* (1969 SCMR 233), the Hon'ble Supreme Court observed that, as a general rule, where the charge does not entail the extreme punishments contemplated by the prohibitory clause, bail should

ordinarily be allowed unless strong evidence exists to support the belief that the accused is guilty.

9. In **Fazal Wahid v. The State (2019 YLR 171)**, the Hyderabad Circuit Bench of this Court granted bail where documents, including death certificates of the applicant's parents, C.N.I.Cs. of his relatives and birth certificates, supported his claim of residence in Pakistan and rendered the matter one of further inquiry. Likewise, in *Lugman Hussain v. The State* (PLD 1988 Karachi 64), the accused, charged under Article 3(a) of the Foreigners Order, 1951, read with Section 14 of the Foreigners Act, 1946, was admitted to bail. It is also a settled principle that bail cannot be withheld as a measure of punishment before conviction. The applicant is no longer required for investigation; the prosecution evidence is substantially documentary in nature and there is nothing on record to suggest that he is a previous convict.

10. The principle laid down in **Saeed Ahmed v. The State (1996 SCMR 1132)** is also relevant, wherein bail was granted as the case rested entirely upon documentary evidence already in the possession of the prosecution, the challan had been submitted and there was no reasonable possibility of the accused tampering with such evidence. The same considerations are attracted to the circumstances of the present case.

11. In view of the above facts and circumstances, the applicant had succeeded in making out a case for further inquiry under Section 497(2), Cr.P.C. Consequently, the instant bail application was allowed and applicant Amir was admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the Nazir of this Court, vide short order dated 25.05.2026. These are the reasons for the said short order.

12. The observations made hereinabove are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

JUDGE