

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.268 of 2026

Applicant : Yaseen son of Nazar Muhammad,
through Mr. Muhammad Riaz Abbasi, Advocate.

Respondent : The State, through Mr. Muhammad Noonari,
Deputy Prosecutor General Sindh.

Date of hearing : 25.05.2026.

Date of order : 25.05.2026.

ORDER

TASNEEM SULTANA, J.— Through this criminal bail application, the applicant Yaseen seeks post-arrest bail in Crime No.279 of 2025, registered under Sections 3, 4 & 14 of the Foreigners Act, 1946 at Police Station Gulshan-e-Maymar, Karachi. Earlier, his bail application bearing No.209 of 2026 was dismissed by the learned Additional Sessions Judge-IV, Karachi West, vide order dated 19.01.2026; hence, the instant application for the same concession.

2. Brief facts of the prosecution case are that SIP Niaz-ul-Hassan, vide report No.19, while engaged in the investigation of FIR No.268 of 2025 under Sections 302/34, P.P.C., interrogated Noor Muhammad and Yaseen, the present applicant. During interrogation, they were required to produce proof of Pakistani nationality; however, they failed to produce any valid identity documents, whereupon it transpired that they were residing in Pakistan without lawful authority. Thereafter, the complainant arrested them in accordance with law and lodged the present FIR.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated; that the entire case is documentary in nature and no incriminating recovery has been effected from his personal possession; that the applicant is an Afghan citizen holding Computerized Afghan Citizen Card No.EB31399176701 issued by the Government of Pakistan and, as such, there is no material evidence against him; that the Government of Pakistan has extended the validity of Proof of Registration Cards issued to Afghan refugees from time to time; that the above facts are duly reflected from the record, thereby raising mixed questions of law and fact relating to his lawful status in Pakistan, which cannot be conclusively determined at the bail stage; that the applicant has remained behind bars since his arrest; that the investigation has been completed and no further custodial interrogation is required; and that the case squarely falls within the ambit of further inquiry under Section 497(2), Cr.P.C.

4. Conversely, learned Deputy Prosecutor General Sindh, for the State, opposed the instant bail application and submitted that the offence pertains to illegal entry and that, under Section 9 of the Foreigners Act, 1946, the burden lies upon the accused to establish his lawful status; and that the alleged offence fall within the prohibitory clause.

5. Heard. Record perused.

6. A tentative assessment of the available record reflects that the prosecution case rests primarily upon documentary material relating to the applicant's authority to remain in Pakistan. The applicant claims to be an Afghan citizen holding a Computerized Afghan Citizen Card issued by the Government of Pakistan. He has also relied upon a notification dated 22.07.2024, whereby the validity of Proof of Registration Cards issued to registered Afghan refugees was extended up to 30.06.2025, and a subsequent communication dated 04.07.2025 directing the concerned authorities not to arrest or restrict Afghan refugees holding valid PoR Cards until a final decision regarding their further extension was taken by the Federal Government.

7. The documents available on record specifically relate to holders of Proof of Registration Cards, while the applicant relies upon an Afghan Citizen Card. Nevertheless, the authenticity, validity and legal effect of the card held by the applicant, as well as the applicability of the said documents to his case, require proper verification and determination through evidence. It is, therefore, yet to be seen whether the applicant was residing in Pakistan without lawful authority so as to attract the penal provisions of the Foreigners Act, 1946. These questions cannot be conclusively resolved at the bail stage and call for further inquiry.

8. So far as the offences under Sections 3, 4 & 14 of the Foreigners Act, 1946 are concerned, the evidence against the applicant is yet to be evaluated, and it remains to be determined whether the said provisions are attracted in the attending circumstances of the case. In such circumstances, the Hon'ble Supreme Court of Pakistan, in the case of ***Haji Wali Muhammad v. The State (1969 SCMR 233)***, held as under: —

“As a general rule on a charge of the kind made in this case not invoking a sentence of death or transportation for life, bail should ordinarily be allowed disregarding the grounds of the seriousness or anti-social nature of the offence, unless there are strong grounds, in the shape of evidence for the belief that he is guilty.”

9. In **PLD 1988 Karachi 64**, the accused was charged under Article 3(a) of the Foreigners Order, 1951, punishable under Section 14 of the Foreigners Act, 1946, and was allowed bail. Reliance may also be placed

upon **2017 MLD 259**, wherein it was held that bail cannot be withheld as punishment in advance. Moreover, the applicant is neither required for further investigation nor shown to be a previous convict.

10. In view of the above facts and circumstances, the applicant has succeeded in making out a case for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the instant bail application was allowed and the applicant Yaseen 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 herein are tentative in nature and shall not influence the learned trial Court in any manner.

JUDGE