

THE HIGH COURT OF SINDH AT KARACHI

Spl. Cr. Bail Application No. 94 of 2026

Applicants : (i) Muhammad Nadeem Memon
(ii) Muhammad Naveed
(iii) Muhammad Noman
Through M/s. Zain A. Jatoi and
Mustafa Mamdani, Advocates.

The State : Mr. Zulfiqar Ali Arain, Special
Prosecutor Customs along with I.O. of
the case namely, Muhammad Saqlain.

Date of hearing : 13-07-2026

Date of decision : 13-07-2026

*FIR No. 01/2025-26 dated 28.03.2026
C. No. 154-Cus/Seiz/ASU-I/Hyd/2025-26
u/s: 2(s), 16, 157, 168, 178 and 187 Customs Act, 1969
r/w section 3(1) Imports & Exports (Control) Act, 1950,
punishable under clauses (8) and (89) of section 156(1) Customs Act, 1969
P.S. Collectorate of Customs Enforcement Hyderabad*

ORDER

Adnan Iqbal Chaudhry J. - Applicants pray for post-arrest bail in the aforementioned crime after bail has been denied by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by order dated 24.04.2026.

2. As per the FIR, lodged on 28.03.2026 upon a tip, a team of the Anti-Smuggling Unit-I, Hyderabad intercepted a car travelling from Sukkur to Hyderabad; upon a search of the car were recovered 104 bars of foreign-origin silver, packed in 4 bags with a total weight of 104 kg; Applicant No.1 as driver of the car, and Applicants 2 and 3 as his companions were arrested when they failed to produce documents to show lawful import of the silver bars; they were booked for the offence of smuggling as defined in section 2(s) of the Customs Act, 1969, punishable under clauses (8) and (89) of section 156(1) of said Act.

3. Heard learned counsel and perused the record.

4. It is alleged that the silver bars, which are inscribed with foreign markings, were smuggled into Pakistan through unauthorized routes, taken to a jewelry shop at Sarafa Bazar Sukkur, and then transported in small quantities to buyers in Pakistan. While such allegation has yet to be proved by the prosecution, presently the fact of the matter is that said silver bars were not seized from a border area or from an unauthorized route into Pakistan but were seized from a national high-way. The Import Policy Order, 2022 does not prohibit the import of silver into Pakistan, rather permits import subject to certain conditions and restrictions. Therefore, it may well be that the silver bars were lawfully imported and then traded in the local market as contended by learned counsel for the Applicants.

5. As aptly observed by the Supreme Court in *Sikandar A. Karim v. The State* (1995 SCMR 387) :

“If the items alleged to be smuggled by the prosecution were available freely in the open market and imports of such goods were not banned in the country, a presumption may arise that these goods were lawfully brought in the country unless contrary is shown.”

Since silver bars are not banned goods, it is premature to infer smuggling merely from the foreign markings on those silver bars. Therefore, the case against the Applicants is one of further inquiry, falling within the ambit of sub-section (2) of section 497 Cr.P.C.

6. Learned Prosecutor submits that smuggling can be inferred from WhatsApp messages retrieved from the cellphone of Applicant No.1. But again, that calls for a further inquiry into the matter.

7. The submission by learned Prosecutor that clause 8(i)(e) of section 156(1) of the Customs Act provides imprisonment of 14 years, cannot become a ground to deny bail in a case requiring further inquiry, especially when that provision provides a range of imprisonment between 5 to 14 years. As regards the offence punishable under clause (89)(i) of section 156(1) of the Act, the maximum term of imprisonment is 6 years, which does not fall within the prohibitory clause of section 497 Cr.P.C.

8. For the foregoing reasons, the Applicants Muhammad Nadeem Memon, Muhammad Naveed and Muhammad Noman are granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs.500,000/- [Rupees Five Hundred Thousand only] each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that the observations herein are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

Karachi
Dated: 13-07-2026

**PS/SADAM*