

THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Bail Appl. No. 213 of 2025

[Muhammad Faisal versus The State]

Applicant : Muhammad Faisal son of Hajumat Khan through Mr. Tarique Hussain, Advocate.

Respondent/State : Mr. Zulfiqar Ali Arain, Advocate.

Date of hearing : 26-08-2025

Date of decision : 26-08-2025

*FIR No. 01/2025-26 dated 10-07-2025
u/s: 2(s) and 16 of Customs Act, 1969 read with
section 3(1) of Imports & Exports (Control) Act, 1950,
read with SRO 566(1)/2005 & SRO 499(1)/2009,
punishable under clauses 8 & 89 of section 156(1) of Customs Act, 1969,
P.S. Customs Office, Sukkur*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant seeks post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-II), Karachi by order dated 25-07-2025.

2. Heard learned counsel and perused the record.

3. As per the FIR, the Anti-Smuggling Unit of the Customs received a tip that a certain trailer was transporting smuggled betel nuts from Punjab to Karachi. The trailer was intercepted at Customs Check Post, Kot Sabzal. Upon a search, 200 bags containing 6000 kgs of crushed betel nuts were recovered. The Applicant was arrested as the driver of the trailer when he could not produce documents of import and was 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.

4. The Applicant is neither the owner of the trailer nor does he claim to be owner of the seized goods. He claims to be the driver employed by the transport company that had contracted the trailer on hire for transporting said goods. The bilty produced by the Applicant supports that version. Though the bilty is for transporting bags of choker (husk) from a godown

near Rahim Yar Khan, it is pleaded by the Applicant that he was unaware that the bags loaded contained crushed betel nuts.

5. Nevertheless, the fact of the matter remains that there is no evidence as yet to demonstrate that the crushed betel nuts were smuggled into Pakistan. The betel nuts were not found in a foreign packing, nor was the seizure made from any border area. The import of betel nuts into Pakistan is not prohibited under the Import Policy Order, rather it is subject to certain conditions and restrictions. It was 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.”

Therefore, it may well be that the betel nuts seized were lawfully imported and traded in the local market.

6. With the value of the seized betel nuts estimated by the Customs at Rs. 3,312,561/, the offence alleged would fall under clauses 8(i)(b) and 89(i) of section 156(1) of the Customs Act, where the maximum term of imprisonment is three and six years respectively. Therefore, the offence alleged against the Applicant does not fall within the prohibitory clause of section 497 Cr.P.C. In such circumstances, bail becomes the rule and its refusal the exception.

7. In view of the foregoing, the Applicant Muhammad Faisal son of Hajumat Khan is granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 300,000/- [Rupees Three Hundred Thousand Only] alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

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

JUDGE

Karachi
Dated: 26-08-2025
SHABAN*