

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2916 of 2025

Applicant : Muhammad Shabbir son of
Muhammad Jalal M/s. Muhammad
Daud Narejo and Muhammad
Yousuf Narejo, Advocates

The State : Through Mr. Mohsin Kadir
Shahwani, Additional Attorney
General, Pakistan along with Mr.
Sharaf-u-Din Jamali, Assistant
Attorney General and Inspector/ IO-
Babar Ali, FIA, AHTC, Karachi

Date of Hearing : 03.11.2025

Date of Decision : 12.11.2025

ORDER

Jan Ali Junejo, J.- The Applicant, Muhammad Shabbir S/o. Muhammad Jalal, presently confined in judicial custody, seeks post-arrest bail in F.I.R. No. 317/2025, registered at Police Station FIA, A.H.T. Circle, Karachi, under Sections 3, 4, and 6 of the Prevention of Smuggling of Migrants Act, 2018 (PSMA-2018, as amended in 2025). This application challenges the impugned order dated 15.10.2025, passed by the learned Court of Special Judge (Central-I), Karachi, which dismissed the Applicant's initial bail plea.

2. The prosecution's case is initiated by a formal referral from the Overseas Criminal Investigations Unit (OCIU) of the U.S. Consulate General, Karachi, concerning a sophisticated scheme of visa fraud and human smuggling orchestrated through a deceptive entity styled as the "Young Entrepreneurs Summit (YES)". The Applicant, Muhammad Shabbir, owner of "Chouhan Internationals Travel and Tourism", is alleged to be a key facilitator and agent in this operation. The FIR explicitly records that the Applicant received PKR 500,000/- from a visa applicant, Muhammad Ahmad, and, crucially, assured him that he could stay in the USA rather than returning to Pakistan after the visa was issued. This assurance, coupled with the use of fabricated documents and a network of co-accused (Kiran Faisal, Uzma Mustafa, Asfand Shah, etc.), forms the basis for the charges under Sections 3, 4, and 6 of the PSMA, 2018.

3. The learned counsel for the Applicant, M/s. Muhammad Daud Narejo and Muhammad Yousuf Narejo, advanced a multi-pronged argument contending that the prosecution has failed to establish a prima facie case falling within the prohibitory clause of Section 497(1) Cr.P.C. They argued with precision that the essential statutory aggravators for invoking the stringent Section 6 of the PSMA, 2018—specifically, organized criminal activity or endangering the lives of migrants—are conspicuously absent from the evidence, rendering its application merely mechanical and unjustified. They emphasized that the solitary allegation against the Applicant, stemming from the uncorroborated statement of a co-applicant, is insufficient for a finding of guilt and fails to connect him directly to the alleged conspiracy, thereby making this a fit case for "further inquiry" under Section 497(2) Cr.P.C. Furthermore, they highlighted the absence of any direct, incriminating recovery from the Applicant. On these grounds, the learned counsel fervently prayed for the grant of bail to the Applicant.

4. The learned Additional Attorney General, Mr. Mohsin Kadir Shahwani, assisted by Mr. Sharafuddin Jamali, advanced arguments in vehement opposition, underscoring the grave and transnational nature of the crime. He authoritatively argued that the case is squarely barred by the prohibitory clause of Section 497(1) Cr.P.C., as the Applicant is prima facie implicated in an offense punishable under Section 6 of the PSMA, which carries a potential imprisonment of fourteen years. He contended that the material on record, including the institutional referral from the U.S. Consulate and the confessional statements of co-accused, definitively establishes a sophisticated organized criminal activity aimed at systematically smuggling migrants through visa fraud. He stressed that the Applicant's specific act of assuring a visa applicant they could illegally overstay in the USA constitutes a direct endangerment of the migrant's safety and legal status, thus fulfilling the criteria of the aggravated offense. Dismissing the defense of uncorroborated evidence as misplaced, he asserted that the collective evidence paints a clear picture of the Applicant's integral role as a key facilitator who received substantial financial gain. Citing the need for a strong deterrent in crimes that tarnish the nation's image and exploit citizens, the learned Additional Attorney General passionately prayed for the dismissal of the bail application.

5. This Court has given anxious consideration to the arguments of both sides and has undertaken a tentative appraisal of the material on record, including the FIR and the documents annexed thereto. The

offence under Section 6 of the Act provides enhanced punishment where the offence qualifies as an “Aggravated Offence”. In such circumstances, the punishment may extend to fourteen years, thereby bringing the matter within the prohibitory clause contained in Section 497(1), Cr.P.C. The term “Aggravated Offences” is defined to include:

(a) where the offence involves serious injury, life-threatening illness, or death, or other circumstances that endanger, or are likely to endanger, the life or safety of the smuggled migrant or another person;

(b) where the offence involves cruel, inhuman or degrading treatment of another person; or

(c) where the offence was committed as part of the activity of an organized criminal group.

6. The contention that the invocation of Section 6 is mechanical is unsustainable at this stage, as the facts narrated in the FIR prima facie establish the necessary aggravating circumstances: The FIR clearly details a coordinated operation involving multiple individuals (Kiran Faisal, Uzma Mustafa, Asfand Shah, the Applicant, etc.) operating under the guise of a legitimate entity (“Duniawise” and “YES”) to recruit, process, and deceive multiple visa applicants. This systematic and coordinated effort to commit the offense for financial gain constitutes a prima facie case of organized criminal activity, which is a direct aggravator under Section 6 PSMA. The Applicant’s assurance to the visa applicant, Muhammad Ahmad, that he could “stay in USA rather than returning back to Pakistan” is a direct inducement to violate the immigration laws of a foreign state. This act, which exposes the migrant to the risk of deportation, detention, and permanent blacklisting, constitutes an act that endangers the safety and legal status of the migrant, which is a recognized form of endangerment under the PSMA. Therefore, the material on record is sufficient to prima facie connect the Applicant to the aggravated form of the offense, making the prohibitory clause of Section 497(1) Cr.P.C. fully applicable.

7. The Applicant’s plea that the case is one of further inquiry under Section 497(2) Cr.P.C. is not tenable. The contention regarding the uncorroborated nature of the allegation is misplaced, as the statement of Muhammad Ahmad is corroborated by the overall modus operandi of the organized group, the confessional statement of co-accused Uzma Mustafa (who detailed the operation of Duniawise/YES), and the institutional referral from the U.S. Consulate, which confirms the fraudulent nature of

the applications. The law does not require corroboration of every single fact, but a general nexus, which is *prima facie* established. Furthermore, the argument regarding the absence of incriminating recovery from the Applicant is not fatal to the prosecution's case, as in cases of organized crime and white-collar offenses, the evidence is often documentary and digital, held by the organization as a whole, and the fraudulent documents themselves, confirmed by the OCIU, constitute the material evidence of the crime. Finally, the offense is not merely a civil-like consultancy dispute but a grave crime against the State and the international community, involving the exploitation of vulnerable individuals and the tarnishing of the country's image abroad, which, as an offense against society at large, warrants a strict approach at the bail stage.

8. In view of the *prima facie* applicability of the prohibitory clause under Section 497(1) Cr.P.C., supported by the Applicant's clear role in an organized criminal activity under Section 6 PSMA, and the fact that the case is not one of further inquiry, the Applicant is not entitled to the concession of post-arrest bail. The gravity of the offense, its international implications, and the need to send a strong deterrent message to those involved in human smuggling operations outweigh the Applicant's claim to liberty at this preliminary stage.

9. For the reasons discussed above, the instant Criminal Bail Application, being devoid of merit, is hereby dismissed. The observations made herein are tentative in nature, restricted to the adjudication of this bail application, and shall not prejudice the case of either party during the trial.

JUDGE

Qurban