IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3653 of 2026

Applicant : Fouad Ahmed Khan s/o Khurshid Ahmed Khan
Through M/s. Salahuddin Ahmed and Aman Aftab, Advocates

Criminal Bail Application No.3673 of 2026

Applicant : Muhammad Arman S/o Muhammad Kamran
Through Mr. Irshad Ahmed Jatoi, Advocate

Criminal Bail Application No.3677 of 2026

Applicants : Ubaid Saeed & 05 others
Through Mr. Adnan Ali, Advocate

Criminal Bail Application No.3687 of 2026

Applicants : Pervaiz Hussain and 03 others
Through Mr. Faisal Altaf, Advocate

Criminal Bail Application No.3689 of 2026

Applicant : Muhammad Ahmed Awan son of Ahmed Awan
Through Mr. Muhammad Yaseen Jatoi, Advocate

Criminal Bail Application No.3694 of 2026

Applicant : Huzaifa Ashraf son of Muhammad Ashraf
Through M/s. Muhammad Bilal Rashid and Muhammad Shanawaz, Advocates

Criminal Bail Application No.3757 of 2026

Applicant : Ehtisham son of Muhammad Waqas
Through Mr. Muhammad Khalid Malik, Advocate

Criminal Bail Application No.3772 of 2026

Applicant : Joshua son of Javed Peter
Through M/s. Tahir Khan Mandokhail and Ms. Hussan Bano, Advocates

Respondent : The State
Through Mr. R. D. Kalhoro, Assistant Attorney General for Pakistan duly assisted by SI/IO Ameer Ali, NCCIA, Karachi.

Date of hearing : 10.11.2026

Date of Order : 10.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** These eight applications, arising out of the same case bearing Crime No. 85/2026, registered at P.S. Cybercrime Reporting Centre, NCCIA, Karachi, for ofeence under Sections 3, 4, 6, 13, 14, 16 and 26 of the Prevention of Electronic Crimes Act, 2016 (as amended in 2025), read with Sections 34 and 109, PPC.and involving common questions of fact and law, are being decided through this consolidated order.

2. Briefly, the prosecution case is that, pursuant to source information, Enquiry No. 1717/2026 was initiated concerning an allegedly unlawful call centre operating from Office No. 210, Second Floor, Business Avenue, Shahrah-e-Faisal, Karachi. A raid conducted on 15.09.2026 resulted in the apprehension of several persons and seizure of computers, mobile phones and other electronic devices. Their preliminary examination allegedly disclosed call-dialling and spoofing applications, confidential personal information of foreign nationals, banking credentials, electronic spreadsheets and communications suggesting impersonation of representatives of United States financial institutions, extraction of sensitive information and unauthorized financial transactions. The FIR was registered on 16.09.2026, whereas an interim challan was submitted on 05.10.2026.

3. Learned counsel for the applicants have principally contended that the applicants are not attributed any individually established fraudulent transaction; that their alleged employment or presence at the premises cannot, without proof of conscious participation, establish criminal liability; that the electronic devices and other alleged incriminating material have already been secured by the investigating agency; and that the offences do not attract the prohibitory clause of Section 497(1), Cr.P.C. They have further questioned the manner of search and seizure, invoked the rule of further inquiry under Section 497(2), Cr.P.C., and relied upon PLD 1995 SC 34[1], PLD 2017 SC 733[2], 2021 SCMR 1016[3], 2026 SCMR 1339[4], 2024 YLR 2635[5] and other cited authorities.

4. Learned Deputy Attorney General has opposed the applications, relying upon the allegations and prosecution material. He has particularly

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[1] Tariq Bashir and 5 others v. The State
[2] Muhammad Tanveer v. The State and another
[3] Ahmad Khalid Butt v. The State and another
[4] Sajjad Haider and another v. The State and another
[5] Abdul Karim v. The State

submitted that the electronic devices recovered during the investigation have been forwarded for forensic examination and that the reports of the Forensic Science Laboratory are awaited. The question, therefore, is whether the material presently available, notwithstanding the pending forensic reports, furnishes sufficient legal justification for continued incarceration of the applicants.

5. At the very outset, the offences invoked in the FIR require separate consideration. Sections 3 and 4 of PECA concern unauthorized access to, copying or transmission of information systems or data with the requisite dishonest intention; Section 6 relates to unauthorized access to critical infrastructure information systems or data; Section 13 deals with electronic forgery; Section 14 with electronic fraud; Section 16 with unauthorized use of identity information; and Section 26 with spoofing. Sections 34 and 109, PPC, respectively concern common intention and abetment. Each provision has its distinct ingredients, and their collective invocation cannot dispense with proof of the particular conduct and requisite mental element attributable to an accused. Under Section 43 of PECA, as amended in 2025, Sections 13 and 14 are non-bailable, whereas the other substantive PECA offences presently invoked are ordinarily bailable. Even the enhanced punishment contemplated under Section 13(2) does not reach the prohibitory threshold of Section 497(1), Cr.P.C.

6. The settled rule governing such offences is that grant of bail is ordinarily the rule and refusal an exception. In Tariq Bashir (PLD 1995 SC 34), the Supreme Court identified exceptional circumstances warranting refusal, including likelihood of absconding, interference with prosecution evidence, repetition of the offence and relevant previous criminal conduct. The principle was reiterated in Muhammad Tanveer (PLD 2017 SC 733). In Ahmad Khalid Butt (2021 SCMR 1016), involving offences under PECA read with Sections 34 and 109, PPC, bail was granted where the punishments were outside the prohibitory clause and no exceptional circumstance was demonstrated. More recently, in Sajjad Haider (2026 SCMR 1339), the Supreme Court, while dealing with allegations of substantial financial wrongdoing, emphasized the documentary nature of evidence, absence of necessity for further custodial investigation and impermissibility of allowing pretrial detention to assume the character of punishment. The principles reiterated in Abdul Karim (2024 YLR 2635) are to the same effect. The proposition recognized in 2009 SCMR 174[6], that bail in non-prohibitory offences is not automatic, does not dilute these

[6] Shameel Ahmed v. The State

principles; it merely requires the Court to ascertain whether exceptional circumstances are established on the particular record.

7. Examining the prosecution material in this legal perspective, the FIR undoubtedly describes allegations of serious electronic misconduct. Its seriousness, however, cannot obscure the distinction between the alleged existence of an unlawful operation and the criminal responsibility of every person found at its premises. The prosecution's own role-attribution chart distinguishes the alleged owners and managers from supervisors, IT personnel, connectors, qualifiers and office assistants. Whereas certain individuals are attributed managerial, technical or data-handling functions, others are alleged merely to have connected or transferred calls. In the case of Ali Talash, the prosecution chart itself records the absence of specific material establishing conscious involvement. Thus, the individual roles, knowledge and intention of the applicants cannot be conclusively inferred from their collective presence, particularly when the relevant electronic records have yet to undergo comprehensive forensic examination. Statements purportedly obtained during police interrogation must also be assessed subject to the applicable rules of admissibility.

8. The initial technical analysis report concerning a mobile telephone attributed to Muhammad Farooq refers to spreadsheets, confidential personal information, communications regarding invoices and financial transactions. These circumstances may constitute legitimate material for investigation; nevertheless, the report itself recommends comprehensive forensic examination. The authorship, integrity, source, control and actual use of the electronic records, together with their nexus to the respective applicants, remain matters requiring examination. A preliminary technical finding cannot, merely by its existence, establish the culpability of every person associated with the premises. Conversely, the absence of a completed forensic report does not automatically establish innocence. The Court is required to evaluate what the available material presently discloses.

9. Of decisive significance is that the electronic devices, computers, mobile phones and other digital material recovered during the raid have already been taken into possession by NCCIA and are admittedly in the custody and control of the prosecution or the forensic laboratory to which they have been forwarded. The prosecution has thus secured the principal physical evidence upon which its case substantially rests. No specific

circumstance has been demonstrated suggesting that any applicant can now gain physical access to those seized articles, alter their contents or interfere with their forensic examination. The apprehension of tampering with the recovered devices is, therefore, without an established factual foundation. Nor has the prosecution identified any particular remotely accessible account or outstanding electronic record over which a named applicant retains control and which he is reasonably likely to alter or destroy upon release. A conjectural possibility of interference cannot substitute for a demonstrable likelihood founded upon the record.

10. The submission of the learned Deputy Attorney General that the devices have been dispatched to the FSL and their reports are awaited does not advance the prosecution case on the question of continued detention. Forensic examination may proceed independently of the physical custody of the applicants. The investigation has already resulted in seizure of the relevant articles and submission of an interim challan. No specific recovery requiring continued incarceration has been identified. The mere fact that expert opinion is awaited cannot operate as an indefinite restraint upon liberty; otherwise, detention would depend upon the time consumed by a forensic laboratory rather than upon the requirements of Section 497, Cr.P.C. Such an approach would be inconsistent with the principles reaffirmed in Sajjad Haider (2026 SCMR 1339).

11. The objections regarding absence of a search warrant, association of independent witnesses and compliance with the provisions regulating search and seizure under PECA and the Cr.P.C. involve disputed questions whose ultimate effect shall be determined in accordance with law. They do not warrant a conclusive finding at the bail stage. Likewise, the question whether the conduct attributed to the applicants satisfies the distinct ingredients of unauthorized access, electronic forgery, electronic fraud, misuse of identity information, spoofing, common intention or abetment remains dependent upon evidence establishing their individual participation and requisite *mens rea*. The prosecution cannot overcome these requirements merely by describing the alleged enterprise as organized or financially sophisticated.

12. The impugned orders substantially proceed upon the gravity of the allegations, preliminary technical findings and incomplete forensic investigation. While these considerations are relevant, they cannot independently justify detention of every applicant where the statutory

punishments fall outside the prohibitory clause and the principal electronic material is already secured. The individual roles, the available evidence and the necessity of continued incarceration ought to have received separate consideration. The mere pendency of a final report under Section 173, Cr.P.C., does not displace the ordinary rule governing bail. The prosecution has not demonstrated any previous conviction, attempt to abscond, interference with evidence, intimidation of witnesses or other exceptional circumstance peculiar to the applicants sufficient to warrant their continued imprisonment.

13. The material presently available also gives rise to questions requiring further inquiry concerning the precise nature of the applicants' knowledge, intention and participation, particularly in view of the differentiated roles appearing in the prosecution's own record and the incomplete forensic attribution of the electronic material. Such questions cannot appropriately be resolved through a deeper appraisal at the bail stage. The applicants have remained incarcerated since September 2026, the case involves numerous accused and substantial digital evidence, and its conclusion is unlikely to be immediate. Detention cannot be prolonged merely in anticipation that additional incriminating material may eventually be discovered. The seriousness of the accusation demands an effective investigation and expeditious trial; it does not authorize punishment before conviction.

14. For these reasons, upon tentative assessment of the material, I am satisfied that the prosecution has not established exceptional circumstances justifying continued detention of the applicants in offences falling outside the prohibitory clause of Section 497(1), Cr.P.C. Their cases, insofar as the non-bailable offences are concerned, also call for further inquiry within the contemplation of Section 497(2), Cr.P.C. The authorities cited by learned counsel for the applicants are applicable to the extent of the governing principles discussed above. The pendency of forensic examination, standing alone, furnishes no lawful reason to withhold the concession of bail.

15. Consequently, all eight post-arrest bail applications are allowed. The applicants are admitted to bail, subject to furnishing solvent surety in the sum of Rs. 200,000/- (Rupees two hundred thousand only) each, with P.R. bonds in the like amount, to the satisfaction of the learned Trial Court.

16. All observations made herein are strictly tentative and shall not prejudice the case of either party at trial. Office shall place a copy of this order in each connected application.

JUDGE