

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Bail Application No. 234 of 2025

For hearing of Bail Application.

Applicant/ Accused : Naveed Khan son of Kachkol Khan through M/s. Dr. Shahab Imam, Tanveer Ahmed Bhutto, Hasnain Aijaz and Nisar Rind, Advocates.

The State : Through Mr. Haad Abid, Special Prosecutor Customs along with I.O. Aijaz Hussain.

Date of hearing : 04-11-2025

Date of order : 04-11-2025

*FIR No. 02/2025-26 dated 24.01.2025
u/s: 15, 16, 32(1) & 131 of Customs Act, 1969
r/w Arms Act, 1878, as envisaged vide clause 15(b)
of Export Policy Order, 2022 r/w Sr. No.11 of Schedule-II
of Export Policy Order, 2022 punishable under sub-section
9, 14 & 66 of section 156 of the Customs Act, 1969
P.S. Collectorate of Customs (Exports) PMBQ, Karachi*

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) Karachi vide order dated 05-08-2025.

2. Heard learned counsel for the Applicant and the Special Prosecutor for Customs.

3. The FIR, lodged on 24-01-2025, was that a consignment of 2060 ceiling fans manufactured in Pakistan, intended for export to Oman, was stopped and examined at the QICT Yard, Port Qasim, which revealed that 1464 pistols (.30 bore and 9 mm) were concealed in the plastic base cavity of the ceiling fans. The pistols were seized; their value estimated Rs. 43,920,000/-; the exporter namely M/s. Fate Enterprises, and the clearing agent namely Brisking Enterprises, their abettors and beneficiaries were booked for the offence under section

32 of the Customs Act, 1969 [Act], punishable under clauses 9, 14 and 66 of section 156(1) of the Act. As investigation progressed, the offence of smuggling, as per section 2(s) of the Act, punishable under clause 8(i) of section 156(1) of the Act, was added to the final challan dated 24.04.2025.

4. The third supplementary challan, dated 15-10-2025, further added offences under sections 6, 19(c) and 20 of the Arms Act, 1878. It is submitted by learned Special Prosecutor that said provisions of the Arms Act, 1878, dealing with the import and export of arms and ammunition, were not repealed by the West Pakistan Arms Ordinance, 1965; and that, section 15 of the Export Policy Order, 2022 stipulates that restrictions imposed by the Arms Act, 1878 shall be treated as restrictions under the Export Policy Order. But even so, section 3(3) of the Imports and Exports (Control) Act, 1950 in turn stipulates that goods prohibited or restricted by the Export Policy Order shall be deemed to be goods prohibited or restricted by section 16 of the Customs Act. Pursuant thereto, 'arms and ammunition' were notified *vide* SRO 566(I)/2006 (dated 06.06.2005), issued under clause (ii) of section 2(s) of the Customs Act, as goods subject matter of smuggling. Therefore, the offence of smuggling, punishable under clause 8(i) of section 156(1) of the Customs Act, would cover the smuggling of arms and ammunition as well.

5. Coming back to the facts, investigation revealed that certain Yemeni nationals in Pakistan, in particular Amaar, Abdul Moeen and Faiz, purchased the ceiling fans from Gujrat and the pistols from various arms dealers in Peshawar, and then employed a network of persons (co-accused) to conceal the pistols in the ceiling fans, to transport the goods to Karachi, and to file export documents for ceiling fans with the aim of smuggling the concealed pistols out of Pakistan.

6. The Applicant is said to be an arms dealer with shops at Peshawar and Lahore. The role assigned to him in the supplementary

challan-III, dated 15-10-2025, is that he supplied most of the pistols to the Yemeni nationals. He was arrested while at Karachi on the pointation of another arms dealer.

7. The fact of the matter is that the evidence gathered against the Applicant is primarily whatsapp messages traced to his cell phone, which allegedly reveal that he made sales to said Yemeni nationals at Peshawar with active knowledge that pistols being sold by him were intended to be smuggled out of Pakistan. However, those whatsapp messages have yet to be verified by forensic evidence. The investigation does not otherwise reflect whether any record has been recovered from the arms shops of the Applicant to connect sales to the Yemeni nationals.

8. It is not disputed that arms shops of the Applicant is a family business duly licensed in the name of his father. Therefore, until it can be established that the alleged sales of pistols by the Applicant to the Yemeni nationals was by way of abetting the smuggling of those pistols from Pakistan, it is difficult to allege offences under the Customs Act against the Applicant. Resultantly, the case against the Applicant is one of further inquiry into his guilt, falling with the ambit of sub-section (2) of section 497 Cr.P.C.

9. For the foregoing reasons, the Applicant Naveed Khan son of Kachkol Khan is granted post-arrest bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 5,00,000/- [Rupees Five Hundred Thousand only] alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

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

JUDGE

SHABAN*