

**IN THE HIGH COURT OF SINDH KARACHI**

**Spl. Crl. Bail Application No.78 of 2026**  
(Muhammad Irfan Iqbal v. the State)

**Spl. Crl. Bail Application No.79 of 2026**  
(Muhammad Touqeer v. the State)

**Spl. Crl. Bail Application No.120 of 2026**  
(Zeeshan Shah v. the State)

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For hearing of bail application

Dates of hearing : 04.06.2026, 23.06.2026 & 24.06.2026

Date of order : 30.06.2026

Dr. Shahab Imam, advocate for the applicants in BA No. 78 & 79 of 2026

Mr. Irshad Ahmed Jatoy, advocate for the applicant in BA No.120 of 2026

Mr. Ashiq Ali Anwar Rana, Special Prosecutor, Customs

Mr. Taufique Ahmed, Assistant Collector, Customs

Mudassir Ali, Preventive Officer/I.O

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**Omar Sial, J.** The Applicants, namely, Muhammad Irfan Iqbal, Muhammad Tauqeer, and Zeeshan Shah, have sought post-arrest bail in Crime No. ASO-224/2026-HQ dated 11.03.2026 registered by the Preventive Officer at PS Collectorate of Customs Enforcement at Karachi under sections 2(s), 15, 16, 17, 178, 187 of the Customs Act, 1969, and section 3(1) of the Import and Exports Control Act, 1950, read with Import Policy Order 2022. The offenses are punishable under 156(1)(8) and (89) of the Customs Act, 1969. Earlier, their request for bail was dismissed by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi, vide Orders dated 10.4.2026 and 07.05.2026.

2. The facts as per the FIR are as follows. On the night of 9<sup>th</sup>-10<sup>th</sup> March, 2026, the staff of Anti-Smuggling Organization (ASO) received intelligence that foreign-origin silver was being stored and altered at Gold Tower Building, 14th Floor's Commercial Apartment number 1415-1420. Upon the receipt of such information, a team was constituted and, without a search warrant (section 162, Customs Act, 1969), the team, headed by the Assistant Collector, proceeded to conduct a search operation due to the urgency of the situation and the strong likelihood that the goods could be shifted. Once they reached the apartments, they knocked on the door repeatedly but received no response, so they broke

in. On the premises, they found the applicants, Muhammad Tauqeer and Muhammad Irfan Iqbal (a laborer), present. The apartment was a mini production unit from which 500 kg of silver in the form of bars and rods was recovered. Upon inquiry, the two applicants could not produce any documentary evidence substantiating ownership or possession of the silver. Due to the lack thereof, the silver was seized and detained. It was further recorded that the silver had been brought into the country through a route different from the one declared under sections 9 and 10 of the Customs Act, 1969, owing to which reason, no title documentation was available with the said two applicants. Since then, the two applicants have been in custody.

3. I have heard the learned counsel for the applicants as well as the learned Special Public Prosecutor, Customs. My tentative observations and findings are as follows.

**Muhammad Irfan Iqbal and Muhammad Tauqeer**

4. The 161 statements of the applicants record that the only person present at the premises during the search operation was one of them, Muhammad Irfan Iqbal, a laborer employed by Muhammad Tauqeer at a monthly salary of PKR 25,000. Muhammad Irfan has recorded that upon the customs official's arrival at the premises, he called his employer, Muhammad Tauqeer, and informed him of the events of that night. Muhammad Tauqeer's version is the same. Hence, the record reflects a discrepancy between the facts as alleged in the FIR and those alleged in the 161 statements.

5. Furthermore, Muhammad Tauqeer claims that he has been a silversmith since 1998. He has a wide clientele who provide him with their silver for melting and recasting. He further contended that the silver seized by the customs officers is not his but belongs to his various customers. As per the Interim Challan, one of the customers, namely Imran Samana of ARY Jewelers, has also confirmed the veracity of that statement and attested to the ownership of 100 kg of silver. Two other owners, namely Imran Sukkur and his son, Sufyan, have been listed as absconders in the Interim Challan.

6. I also note that the Assistant Collector of Customs invoked the powers of section 163, Customs Act, 1969 ("the Act") by bypassing section 162 of the Act, on the observation that "urgency of the situation and the strong likelihood that the goods could be shifted". There is no cavil to the fact that indeed section 162 can be circumvented for the more excessive powers of section 163 of the Act, but with the following caveat. That is, if the Assistant Collector of Customs has *reasonable grounds for believing "that there is a danger that they may be removed before a search can be effected under section 162"* and he documents that belief by preparing *"a statement in writing of the grounds of his belief ... and the goods for which the search is to be made"*. Anything short of that does

not meet the requisite requirement for the invocation of section 163 of the Act.<sup>1</sup> Non-compliance with the processes and requirements of the law equates to a malafide in law.<sup>2</sup> However, if such a statement has been recorded, neither the FIR nor the interim challan reflects its existence.

7. Additionally, it has been contended before me that the jurisdiction of customs officials extends to customs area, customs airport, customs port, and customs station (section 2(i)(h)(j)(k) of the Act) as declared to be so under section 9 of the Act. The premises from which the recovery has been effected are not even in the vicinity of any port, let alone a part of it. In fact, it is located in the heart of a major hustling city center, i.e., Saddar. Nothing has been placed on the record to demonstrate that the said area has been declared to be a customs port under section 9 of the Act. In the absence of the same, a shadow of doubt is cast on whether the customs officials even had the requisite power to unilaterally assume jurisdiction of an area outside of a customs area/port/station/airport. Absent the jurisdiction, the case has no premise. Inter alia, this was one of the grounds on which the FIR was quashed in *Popular Juice Industries & others v. Federation of Pakistan through FBR and others*, 2021 PTD 1329. (“Popular Juice Case”). Though this question is not before me, the lack of jurisdiction, if valid, would vitiate the proceedings in their entirety.

8. Amongst others, the FIR in the Popular Juice Case (on customs offenses) was also quashed because the accused(s) had been charged with smuggling. Still, no civil determination of liability had been adjudicated against them as required under the case of *Taj International*.<sup>3</sup> More recently, in the case of *Special Criminal Appeal No.6/2026*, I held as follows vis-à-vis the determination of civil adjudication in customs cases.

*“Furthermore, adjudication of the civil liability of Muhammad Atif under the Customs Act, 1969, also remains inconclusive due to the pendency of the show cause notice dated 11.11.2019. The Customs Act, 1969, as held by the Hon’ble Supreme Court of Pakistan in Directorate of Post Clearance Audit through DG, FBR Islamabad v. Nestle Pakistan Limited, Islamabad, 2025 SCMR 1974, constitutes the third fiscal statute — alongside the Sales Tax Act, 1990 and the Income Tax Ordinance, 2001 — governing the levy, collection and recovery of import-stage fiscal imports in Pakistan.*

*By parity of reasoning, I am persuaded to hold that since the principle laid down in Taj International (on sales tax) was subsequently extended to income tax matters in Arshad Aziz Abbasi, the same reasoning must equally apply to proceedings under the Customs Act, 1969, which forms the third limb of the statutory framework governing recovery of duties and taxes.”*

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<sup>1</sup> PLD 1991 SC 630, *Collector of Customs (Preventive) and 2 others v. Muhammad Mahfooz*

<sup>2</sup> 2021 PLD SC 1, *Justice Qazi Faez Isa v. the President*

<sup>3</sup> 2014 PTD 1807, *Taj International (Pvt) Limited v. Directorate of Intelligence and Investigation* upheld by the Supreme Court in PLD 2025 SC 633, *Directorate of Intelligence and Investigation v. Taj International (Pvt) Limited*

9. All of the above factors strongly make a case for further inquiry against the applicants, as matters ranging from the very jurisdiction to the legality of search warrants, ownership of the silver, and the determination of civil liability, if any, are yet to be determined.

10. The learned trial court has observed that the punishment for the offense falls within the prohibitory clause of Section 497 Cr.P.C. This is debatable as section 156(8)(e)(i) stipulates that the imprisonment if the offense is proved will be five to fourteen years. Unlike in narcotic cases, where the Supreme Court has held that the higher quantum of sentence will be taken into account at the bail stage, no case has been cited for cases falling within the ambit of the Customs Act, 1969, where such an adjudication has been made. According to well-settled principles at the bail stage, the lower quantum of sentence should be taken into account. Keeping in view the case of Tariq Bashir & 5 others v. the State, PLD 1995 SC 34. I do not see any exceptional or extraordinary reason to deny the applicants bail.

#### **Zeeshan Shah**

11. As per the Interim Challan, Zeeshan Shah was identified by Muhammad Tauqeer as the carrier/messenger for Imran alias Sukkur. As per the 161 statement of Zeeshan Shah, he claims to be merely an employee who transported the silver to Muhammad Tauqeer at the instructions of his employer, Imran alias Sukkur. Apart from that, he claims not to know about the ownership or title of the silver. He has neither been nominated in the FIR nor has any role been ascribed to him in the Interim Challan.

12. In the above circumstances, I see no reason to deny him bail, particularly given that his proximity to the case is even more remote than that of Muhammad Irfan and Muhammad Tauqeer.

13. Accordingly, all the applicants are admitted to bail against the surety of Rs. 100,000 each and a PR Bond in the like amount to the satisfaction of the trial court.

**JUDGE**