

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 1439 of 2022

**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

For hearing of bail application.

**10-01-2023**

Mr. Saadi Sardar, Advocate a/w applicant.

Mr. Muhammad Ahmed, Asstt. Attorney General a/w S.I.P. Zakir Hussain of FIA, I.O. of the case.

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**Omar Sial, J.**: Amir Abdullah Saya has sought pre-arrest bail in crime number 6 of 2022 registered under section 4(1), 5, 8 and 23 of the Foreign Exchange Regulations Act, 1947 read with section 109 P.P.C. at the FIA, SBC, Karachi. Earlier, his application seeking bail, was dismissed by the learned Sessions Judge, Karachi South on 21-07-2022.

2. A background to the case is that in an enquiry being conducted by the F.I.A., it was revealed that the applicant was running a business under the banner of Moosa Co. Ceramics Tiles however was also transferring foreign currency abroad through hawala/hundi. The F.I.A. claimed that some documents were found from the office of the applicant, which documents according to the F.I.A. showed the applicants involvement in the hawala/hundi business. Consequent to the enquiry, the F.I.R. specified in the first paragraph above was registered against the applicant.

3. I have heard the learned counsel for the applicant as well as the learned Assistant Attorney General who was assisted by the Investigating Officer. My observations and findings are as follows.

4. The learned Assistant Attorney General explained that an F.I.R. was registered in the year 2018 against some other person and from the phone of the person accused in that case, details of the applicant were found. The details of the case registered in the year 2018 were not clear as the investigating officer could not properly assist the learned Assistant Attorney

General in this regard. The investigating officer was also at a loss to explain as to why a fresh F.I.R. was lodged against the applicant if the F.I.A.'s stance was that the applicant was linked with the offence alleged in the 2018 F.I.R. The investigating officer was also at a complete loss to explain as to what was the evidence which he had gathered against the applicant which made him conclude that the applicant was involved in the alleged offence. He did however show an email, the nexus of which with the offence complained of, could not be explained by him at all. Apart from the vague email, which prima facie did not show the applicant's involvement in the alleged offence, the investigating officer had no other evidence to support his case. Keeping in mind the evidence shown to me against the applicant i.e. one vague email, there is no doubt in my mind that the case against the applicant is certainly one of further inquiry.

5. A violation of section 4, 5 and 8 of the Act of 1947 is punishable with a maximum sentence of 5 years and though not bailable falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping the principle enunciated in the case of **Tariq Bashir vs The State (PLD 1995 SC 34)**, no exceptional or extraordinary ground has been agitated before me which would merit denying the applicant bail.

6. The conduct of the F.I.A. has been such (registering a second FIR; conducting an, what appears prima facie to be an unauthorized raid, absence of any complaint from the State Bank of Pakistan, the absolute inability of the investigating officer to even prima facie show some cogent evidence against the applicant) that I am unable to conclusively rule out malafide on their part at this preliminary stage.

7. In view of the above observations and findings, the interim pre-arrest bail granted to the applicant is confirmed on the same terms and conditions.

JUDGE