

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2316 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

11th April, 2022

Mr. Israr Ahmed Abro, Advocate for applicant.

Mr. Jameel Ahmed Shah, Assistant Attorney General a/w SIP Manzoor Hussain, FIA/AHTC, I.O. of the case.

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Omar Sial, J.: Muhammad Akber has sought pre-arrest bail in crime number 149 of 2021 registered under sections 420, 468, 471 and 34 P.P.C. at the F.I.A.'s Anti-Human Trafficking Circle police station in Karachi. Earlier, his application seeking bail was dismissed on 22.11.2021 by the learned 4th Additional Sessions Judge, Malir.

2. A brief background to the case is that the applicant was going from Karachi to Turkey by air when he was off loaded from the aircraft, not because he did not have the requisite travel permission to Turkey but because an earlier visa issued to him for Malaysia in the year 2018 was suspected to be a fake one. Upon being interrogated by the F.I.A. sleuths, Akbar told them that in the year 2016 he was issued a Malaysian visa through Gerry's FedEx service and that in the same year a Singapore visa was also issued to him by Gerrys FedEx. He had gone to Singapore and from there had travelled by road to Malaysia and his visa had been extended there. Akbar found a job as a bar tender in Malaysia and worked there for a year and a half. He applied for a change in his immigration status and one of the company's working in Malaysia by the name of Idea5 SDN BHD facilitated the issuance of an employment visa for a fee. The visa, which was then found to be fake had been affixed on his passport, at that point in time. He had returned from Malaysia subsequently and it was only now when he was travelling to Turkey was he off loaded and informed that his earlier Malaysian visa was not a genuine one. Subsequently, Malaysia's diplomatic mission in Karachi confirmed that the visa issued to Akbar was not a genuine one.

3. I have heard the learned counsel for the applicant as well as the learned Assistant Attorney General and the investigating officer of the case.

4. Offences under section 420 and 471 P.P.C are both bailable offence whereas an offence under section 468 P.P.C. though non-bailable falls within the non-prohibitory clause of section 497 Cr.P.C. as it carries a potential sentence of up to seven years. The learned Assistant Attorney General confirmed that there was nothing on record to show that the applicant had played any role forging the visa found on his passport. At the moment, it cannot be conclusively said whether the applicant was a part of the system from where the visa originated or whether because of his being naïve and full of desire to work abroad, he fell a victim to the scam of others in a foreign country. The investigating officer, when asked, also submitted that the applicant had co-operated with the investigation and that he too was not sure whether the applicant had a criminal intent or whether he was a victim of a fraud. Apparently to date no evidence has been discovered till now that would remotely indicate that the applicant is a member of a gang of human traffickers. I am cognizant that pre-arrest bail requires the presence of malafide however on the facts of the present case it would be impossible to show malafide of the investigating agency. It is not clear from the record at the moment though that the requisite warrant, as required to arrest for an offence under section 468 and 471 has been obtained to date. There is very little point in subjecting the applicant to the humiliation of arrest and custody only for him to be bailed out post his custody. Reference in this regard may be made to the case reported as **Muhammad Ramzan vs Zafar Ullah and another (1986 SCMR 1380)** The visa issued is no longer valid thus cannot be used any further. There is absolutely no chance of the applicant tampering with evidence and with the travel track record he has now it may be very difficult for him to even travel out of Pakistan.

5. In view of all the above observations the applicant has made out a case for grant of pre-arrest bail and thus the same is confirmed on the same terms and conditions. An additional condition for the grant of bail would be that the F.I.A. shall ensure that the applicant's credentials on its system at the exit points from Pakistan are adequately flagged so that his travel documents are carefully scrutinized if he intends to travel abroad.

JUDGE