

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 2248 of 2021

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

24thDecember, 2021

Mr. Muhammad Jameel, Advocate for applicant.
Mr. Mumtaz Gopang, Assistant Attorney General.

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Omar Sial, J: Imran Naseer has sought post arrest bail in crime number 17 of 2021 registered under section 3 of the Prevention of Smuggling of Migrants Act, 2018 at the F.I.A.'s Anti-Human Trafficking Circle police station. Earlier, his application seeking bail was dismissed by the learned 5th Additional Sessions Judge, Malir on 10-11-2021.

2. A background to the case is that one Muhammad Zulfikar was one of several Pakistani citizens who had been deported from Turkey for not having the requisite travel documents. Zulfikar, like the others, was detained by the F.I.A. when they landed at the Karachi Airport. Zulfikar and the others told the F.I.A. sleuths that they had made various payments to various people in order to reach Turkey by illegally crossing the border. Further investigations revealed that the applicant was one of the persons who had taken an amount of Rs. 250,000 from Zulfikar to send him to Turkey. The amount was to be paid when Zulfikar reached Turkey. Zulfikar made the payment to some person in Turkey who then released him from a safe house where he was kept. Zulfikar was unable to find a job so had an emergency passport issued, bought his own ticket and came back to Pakistan.

3. I have heard the learned counsel for the applicant as well as the learned Assistant Attorney General.

4. The investigating officer of the case explained that apart from the statement of Zulfikar, he was unable to collect any further evidence against the applicant's involvement in the whole saga. It is also an admitted position that apparently Zulfikar has sworn an affidavit stating that he had not recorded any statement under section 161 Cr.P.C. and that the investigating officer had

merely made him sign some blank papers. He has denied that he even knew who the applicant was. Whether or not the applicant was even present in Pakistan when he is said to have facilitated the applicant to leave the country also appears to be an issue which will have to be examined at trial. At the moment however the F.I.A. is not in possession of the travel record of the applicant to prove or disprove the applicant's claim of not being in the country at the relevant time. There is nothing on record to show the applicant being a member of an organized criminal group. The punishment for an offence under section 3 of the Prevention of Smuggling of Migrants Act, 2018 carries a potential sentence of 3 to 5 years and though non-bailable, falls within the non-prohibitory clause of section 497 Cr.P.C. In view of the evidence that is available against the applicant at this stage, establishing the nexus of the applicant with the crime he is charged of appears to require further inquiry.

5. Above are the reasons for the short order of 20-12-2021.

JUDGE