

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Bail Application No. 177 of 2024

For hearing of Bail Application.

Applicant/ Accused : Muhammad Raza ul Haq Mallick son of Mallick Muhammad Anwar ul Haq through Mr. Mamoon A.K. Shirwany, Advocate.

The State : Through Mr. Ashiq Ali Anwar Rana, Special Prosecutor Customs alongwith I.O./Appraising Officer namely; Saud Ali Akhtar, who is present in Court.

Date of hearing : 15-01-2025

Date of order : 15-01-2025

*FIR No. 05/2024 dated 06-11-2024
u/s 16, 17, 32(1), 32(A), 79, 192 & 209 of Customs Act 1969
punishable u/c 9, 14, 14A, 46, & 86 of S. 156 (1) of Act, ibid
read with Import Policy Order 2022.
PS: Collectorate of Customs Appraisement, West, 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) by order dated 03-12-2024.

2. Heard learned counsel and the Special Prosecutor Customs.
3. The Applicant is Assistant Manager at Meezan Bank, working in the Transaction and International Banking Group, which deals with foreign remittances to the Bank. FIR was lodged against him on 06-11-2024, alleging that he had issued fake Proceed Realization Certificates [PRCs] which misled the Customs to clear 46 imported vehicles on the mis-declaration that duty/taxes thereon had been duly remitted by overseas Pakistanis and received by the Bank under SRO No.52(1)/2019 dated 15-01-2019, hence offences of mis-declaration and fiscal fraud under sections 32 and 32A of the Customs Act, 1969.

4. As explained by the learned Prosecutor and the I.O., the transaction contemplated under SRO No.52(1)/2019 for import of vehicles is that when an overseas Pakistani remits foreign exchange to his bank account or that of a family member in Pakistan (the beneficiary bank), such bank converts the foreign exchange to Pak Rupees and issues a PRC, which is then presented to the Customs for clearance of the vehicle.

5. In the instant case, though the bank account of the importer was stated to be with Faysal Bank, the PRCs were issued by Meezan Bank under a contract it had with the foreign remitting bank for handling its remittances. The Customs sent the PRCs for verification to Meezan Bank, which were verified by the Applicant from time to time *via* emails, and therefore the vehicles were released. Thereafter, upon suspicion, the Customs sought a verification of the PRCs from Faysal Bank, who reported that the CNICs and bank accounts of the alleged importers mentioned in the PRCs were all false. In other words, the foreign exchange and duty/taxes for importing the vehicles had never been remitted from abroad, thus leading to the Applicant's arrest.

6. Learned counsel for the Applicant submits that the PRCs were not prepared by him, but were generated over an automated system deployed at Meezan Bank; and that the Applicant had only verified to the Customs that the PRCs were so generated. On the other hand, the case of the prosecution appears to be that the data for the PRCs did not exist in Meezan Bank's system, and therefore those were not generated by any automated system, rather those were fabricated by the Applicant.

7. The PRCs in question, shown to the Court from the police file, are on the letter-head of Meezan Bank and bear its seal with the following endorsement:

“This certificate has been issued by Home Remittance Units (HRU), Meezan Bank Ltd. and is a computer generated report that does not require any signature if issued without any alter”.

Even through the data for the PRCs did not actually exist in Meezan Bank’s system, the question whether it was the Applicant who fabricated the same, is a question of fact that requires evidence. As regards the remittances from abroad found in the personal bank account of the Applicant, those are explained by him as remittances by his brother working abroad, another question of fact requiring evidence.

8. Of the offences alleged against the Applicant, only the offence under clause 14A of section 156(1) of the Customs Act carries a punishment that may extend to 10 years imprisonment. However, as per that provision, such punishment may or may not follow in addition to fine.

9. The evidence is documentary and in the custody of the prosecution. It is not alleged that the Applicant is a flight risk. Therefore, there is no purpose in keeping the Applicant behind bars during trial.

10. For the foregoing reasons, the case against the Applicant is one of further enquiry into his guilt, falling within the ambit of sub-section (2) of section 497 CrPC. Therefore, the Applicant is granted post-arrest bail in FIR No. 05/2024 subject to furnishing solvent surety in the sum of Rs.1,000,000/- (Rupees One Million only) and 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*