

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Applications No.2930 & 2931 of 2024 and 08 of 2025

Present:

Justice Zafar Ahmed Rajput

Justice Ms. Tasneem Sultana

Applicant in : Javed Mahmood s/o Mahmood Ali Khan
Cr. Bail No.2930 of 2024 through Mr. Aqib Hussain and Ms. Hina
Rahim Advocates.

Applicant in : Syed Zeeshan Afzaal Bilgrami s/o Syed Afzaal
Cr. Bail No.2931 of 2024 Haider, through Mr. Nabeel Ahmed Khan,
Advocate.

Applicant in : Muhammad Khalid s/o Ahmed Bakali,
Cr. Bail No.08 of 2025 through Mr. Shoukat Hayat, Advocate.

Respondent : The State, through Pir Riaz Muhammad Shah,
Deputy Attorney General for Pakistan (**DAG**),
along with Investigating Officer (**I.O**) Umayad
Arshad Butt, Assistant Director, FIA,
Corporate Crime Circle, Karachi.

Complainant : Ms. Corrine (Yunyan) Chen, through her
Attorney, Faisal Saleem, through Mr.
Muhammad Taqi, Advocate.

Date of hearing : 03.03.2025 and 05.03.2025.

Date of order : 05.05.2025

ORDER

ZAFAR AHMED RAJPUT, J.- By this common order, we intend to dispose of
above listed three Criminal Bail Applications as the same being arising out of
same Crime/F.I.R. No.29 of 2024, registered under sections 406, 420, 468, 471,
109, PPC at P.S. FIA Corporate Crime Circle (**CCC**), Karachi have been heard
together.

2. Through listed Criminal Bail Applications, applicants/accused, named-
above, seek post-arrest bail in aforesaid Crime. Their earlier applications for
grant of same relief, filed in Case No.40/2024, were dismissed by the Special
Court (Offences in Banks) Sindh at Karachi, vide single order dated 12.12.2024.

3. Briefly stated facts of the case are that, on 20.11.2024, FIA, CCC Karachi lodged the aforesaid F.I.R, to the effect that consequent upon Inquiry No 36/2024, registered on the complaint of a Chinese national, namely, Corrine (Yunyan) Chen made through her attorney, namely, Faisal Saleem, it transpired that on 17th January 2024, M/s Danzu Traders, a sole-proprietorship owned by **Syed Zeeshan Afzaal Bilgrami** and M/s Jiangsu Provincial Foreign Trade Corporation China, a Chinese Importer, signed a sale and purchase contract, and as per terms thereof, Danzu Traders agreed to export 1500 MT Chrome Ore Lumpy to the Chinese Importer in bulk 20 feet containers. The Chinese Importer through Industrial and Commercial Bank, Nanjing China, sent a Letter of Credit (LC) bearing No.125/ LC/000016/24, dated 24.01.2024, in favour of M/s Danzu Traders to Habib Metro Bank (HMB). Subsequently, **Syed Zeeshan Afzaal Bilgrami** after collecting Original LC documents from HMB, on 31-01-2024, approached to MCB Islamic Bank, Cloth Market Branch, Karachi wherefrom he got issued a Financial Instrument (FI) bearing No. MIB-EXP-007544-02022024, dated 02.02.2024, against the aforesaid LC for USD 413,293/- in favour of Danzu Traders. Thereafter, on 11.02.2024, after issuance of the said FI and filing of Goods Declaration (GD), Danzu Traders shipped from Karachi Port to Xingang-China Port a consignment of 60 Bulk 20 feet containers, which were stuffed with zero-valued goods i.e., clay, gravel and stones, instead of the Chrome Ore Lumpy. The shipment reached Xingang Port on 07th March 2024 but **Syed Zeeshan Afzaal Bilgrami** had already defrauded the Chinese Importer and embezzled the export proceeds amount i.e. USD 413,293/- by crediting the LC in his bank account No. 1281001687490001, maintained in MCB Islamic Bank. In order to meet the aforesaid contract as well as note 46A 'Documents Required' of the LC, **Syed Zeeshan Afzaal Bilgrami**, on 16.02.2024, submitted the following original shipping documents to MCB Islamic Bank for executing the LC's export proceeds in favour of M/s Danzu Traders:

1. Bill of Lading bearing No. VMRKHIXGG00442 dated 10th February 2024.

2. Provisional Invoice bearing No. DAN/JPF2024 dated 16-02-2024 against LC No. 125/LC/000016/24 and contract No. 24JSFT01Z0333-SC.

3. Packing List DAN/JPF2024 dated 16-02-2024 against LC No. 125/LC/000016/24 and contract No. 24JSFT01Z0333-SC.

4. Certificate of Origin bearing No. FTA-KHI-0001992-2024 dated 14-02-2024 issued by Trade Development Authority of Pakistan [TDAP].

5. SGS Inspection Certificate of Quality [No. 202402152764] and Weight [No. 202402152770].

SGS Inspection Certificate of Quality and Weight submitted by **Syed Zeeshan Afzaal Bilgrami** in MCB Islamic Bank for executing the LC in his favour, were fabricated and bogus as they were neither issued by the SGS Pakistan Pvt. Ltd, nor did it ever handle any such inspection job for Danzu Traders. The SGS Pakistan Pvt. Ltd, a sister concern of a Geneva-based company, joined the inquiry proceedings and also formally affirmed and declared fabricated and bogus status of the aforesaid certificates vide a formal letter Reference No. MIN-001/2024 dated 27th May 2024. **Syed Zeeshan Afzaal Bilgrami** has not only committed an export fraud but also a banking fraud by submitting forged, fabricated and bogus documents for executing LC in its favour. In view of documentary and oral evidence collected during the inquiry, a case made out against him under section 406, 420, 468, 471, 109, PPC, and the competent authority i.e., FIA Zonal Board Karachi vide letter bearing No. FIA/DKZ/CCCK/ENQ-36/2024/B-10023, dated 11th November 2024, has accorded permission to register a case against him.

4. Learned counsel for the applicant Javed Mahmood has contended that the applicant is a businessman with good reputation; that he is innocent and has falsely been implicated in this case on the basis of statement of co-accused,

which is inadmissible under Article 38 of the Qanoon-e-Shahadat Order, 1984; that he has not been named in the F.I.R and no direct or indirect evidence, except the statement of the co-accused, is available on record to implicate him with the commission of alleged offence.

5. Learned counsel for the applicant Syed Zeeshan Afzaal Bilgrami has argued that the FIA has lodged the instant F.I.R in a purely commercial transaction between two parties, which cannot be probed by the FIA acting under the Federal Investigation Agency Act, 1974; that in terms of Section 3(1) *ibid*, the FIA has been empowered to investigate the offences specified in the Schedule to the said Act including an attempt or conspiracy to commit and abet any of the scheduled offences and the powers of the FIA are limited to that extent; that offences otherwise non-cognizable do not become cognizable merely on the ground that FIA can investigate the same, as the FIA has no jurisdiction in a civil dispute between two private parties as enumerated in the preamble of the said Act; that the contract between the applicant/seller and Importer/buyer includes an Arbitration clause, according to which the buyer, if so desires, is firstly required to raise a claim against the applicant before the correct forum; that the Importer/buyer has not reached out to the applicant directly with its so-called claim; however a so-called attorney claiming to be the beneficiary of the entire transaction has filed the complaint and the entire machinery of the FIA has been used against the applicant; that the Trial Court failed to note that, as per settled principles of criminal jurisprudence, Section 405/406 cannot co-exist with Section 420, PPC and in cases where the section stated in the Challan are incorrect the right of bail matures for the accused. In support of his contentions, he has relied upon the decisions in the cases of *State Vs. Ikramullah (2021 PLD 1 Baluchistan)* and *Director General FIA vs. Kamran Iqbal (2016 SCMR 447)*.

6. Learned counsel appearing on behalf of the applicant Muhammad Khalid has maintained that the complaint has been lodged by the attorney namely Faisal Saleem of Chinese National, Ms. Corrine (Yunyan) Chen, against the supply of zero valued goods by the seller in violation of terms of the Agreement; that the criminal complaint and the F.I.R. cannot be lodged by the attorney of the complainant under the provisions of Cr. P.C., therefore, lodging of the F.I.R. through the attorney of the complainant is not maintainable under the law, as such, the case of the applicant requires further inquiry at this stage; that no name and role has been transpired of the applicant in the F.I.R, which has been lodged after completion of enquiry by the Enquiry Officer of FIA; that the Trial Court has failed to appreciate that the PW Navaid Aziz, Head of Trade Operation in MCB Islamic Bank, Karachi, who fully handled the export transactions/LC and remittances, in his statement u/s 161 Cr. P.C. has fully described the procedure of dealing of the export on LC, handling of LC, transfer of amount into the account of exporter after release by the importer's bank on receipt of original export documents under the terms of LC/Agreement; that the PW being Head of Trader Operation of MCB Islamic Bank has handled the LC produced by the exporter under the rules & regulations and SOPs of the bank and there is no foul play to handle the LC with the importer's bank at China; that the PW has not implicated the applicant with regard to violations and/or over passing any undue favor to the exporter on his part being the Regional Head (Operations) of South Area at MCB Islamic Bank Karachi, and has no concern with the dealing of transactions of LC in question, therefore, reasonable grounds to believe exist that the applicant has not committed the alleged offences, as such he is entitled to bail.

7. Conversely, learned DAG as well as the learned counsel for the complainant have opposed these applications for grant of bail to the applicants on the grounds that the applicants are involved in a banking offence and the prosecution has sufficient evidence to connect them with the commission of

alleged offence; that since the banking fraud has been committed by the applicants, the Trial Court has the jurisdiction under the Offences in respect of Banks (Special Courts) Ordinance, 1984 to take cognizance and try the applicants under the aforesaid crime.

8. Heard the learned counsel for the parties and perused the record with their assistance.

9. As regard the charge against the applicants Javed Mahmood and Syed Zeeshan Afzaal Bilgrami, it appears from the perusal of the record that former's name does not transpire in the F.I.R. After investigation, FIA has submitted the charge-sheet wherein role assigned to them is with regard to preparation of SGS Inspection Certification, which as per prosecution is fabricated and bogus. However, it has specifically been mentioned in the charge-sheet that *"the question as to which one of the both accused persons prepared these fabricated and bogus SGS Inspection Certificated, still seeks a definitive answer. What is certain, however, is that both accused Syed Zeeshan Afzaal Bilgrami and accused Javed Mahmood had been in possession of these fabricated and bogus Inspection documents before the same were submitted in the bank"*. So far the allegation against applicant Muhammad Khalid (Regional Head, MCB Islamic Bank, South) is concerned, it is also an admitted position that his name is also not mentioned in the F.I.R. and, as per charge-sheet, allegation against him is that he facilitated principal accused Syed Zeeshan Afzaal Bilgrami by reactivating dormant account of his firm i.e. Danzu Traders without proper due diligence, and approved the issuance of the FI, bypassing essential procedural requirements and communicated with other accused on WhatsApp about the receipt and distribution of funds. In this regard it transpires from 161 Cr. P.C statement of PW Muhammad Rizwan Haroon, Branch Manager, MCB Islamic Bank, Karachi, that on 09.02.2024 a request from Syed Zeeshan Afzaal Bilgrami was received

for activation of his bank account which was after completion of due formalities activated on the same day.

10. It is also an admitted position that the Importer is not the complainant of the F.I.R, which has been lodged through attorney of a third person who has not sustained any loss in alleged transaction of selling and purchasing of the goods under GD. Besides, the bank has also not sustained any loss on account of any act of any of the applicants. The genuineness or otherwise of SGS will also be determined after recording pro and contra evidence of the parties. The aforementioned allegations against the applicants requires further enquiry into their guilt. Hence, the applicants are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.3,00,000/- (Rupees three lac only) each and P.R. Bond in the like amount to the satisfaction of the trial Court.

11. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicants on merits. In case the applicant(s) misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving them notice, in accordance with law.

The instant Criminal Bail Applications stand disposed of.

JUDGE

JUDGE

Tahseen /PA