

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.3485 of 2025**

Applicant : Ahmed Shah son of Sahib Khan,  
Through: Mr. Ajab Khan Khattak,  
advocate

The State : The State:  
Through Mr. Zahoor Ahmed Shah,  
Additional Prosecutor General Sindh

Date of hearing : 19.02.2026

Date of Order : 19.02.2026

### ORDER

**Jan Ali Junejo, J:**-- Through this order, I intend to dispose of the post-arrest bail application filed by the applicant Ahmed Shah son of Sahib Khan in connection with FIR No.1793/2025 registered at Police Station Sachal, Karachi, under Sections 14(i) & 14(ii) of the Foreigners Act, 1946. The applicant seeks his release on bail under Section 497 Cr.P.C. after his bail application was declined by the learned Sessions Judge Malir, Karachi vide order dated 03.12.2025.

2. Briefly stated, as per contents of the FIR, the prosecution case is that on 24.10.2025 the complainant police officer arrested certain persons in connection with FIR No.1792/2025 registered under Section 9(1)(3-B) of the Control of Narcotic Substances Act, including the present applicant Ahmed Shah along with other co-accused. During interrogation, the accused persons were asked to produce proof of Pakistani nationality but allegedly failed to produce any such document. Consequently, it was alleged that the accused persons were foreigners and their act fell within the ambit of Sections 14(i) and 14(ii) of the Foreigners Act, 1946, whereafter the present FIR was registered and the accused persons were arrested for further investigation.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. It was argued that the applicant is a citizen of Pakistan by birth and belongs to a family permanently residing in Karachi. Learned counsel further submitted that the father of the applicant possesses a valid CNIC and the applicant has also obtained a birth certificate issued by the concerned Union Council which supports his claim of Pakistani nationality. It was further contended that the allegations against the applicant are based merely on suspicion and that no order from the Federal Government, as contemplated under the Foreigners Act, has been produced by the prosecution for detaining the applicant. Learned counsel submitted that the applicant has already filed a civil suit before the competent Court for issuance of CNIC and the question of nationality is essentially a matter requiring determination through proper proceedings. It was also argued that investigation has already been completed, the applicant is no longer required for further investigation, and the continued detention of the applicant would serve no useful purpose. Lastly, learned counsel prayed that the applicant be admitted to bail, placing reliance upon the principle that liberty of a person is a precious right guaranteed by the Constitution and it is better to err in granting bail than in refusing it.

4. Conversely, learned Additional Prosecutor General Sindh opposed the bail application and submitted that during investigation the applicant failed to produce any valid document proving his Pakistani nationality. It was argued that verification from NADRA did not link the applicant with the alleged father, Sahib Khan, and therefore the claim of the applicant regarding his nationality appeared doubtful. Learned law officer further submitted that the applicant himself had filed a civil suit against NADRA authorities for issuance of CNIC, which prima facie indicates that his status as a Pakistani citizen has not been established. According to the learned law officer, the burden of

proving citizenship lies upon the accused under the provisions of the Foreigners Act, and since the applicant has failed to discharge such burden, the learned trial Court rightly dismissed the bail application. He therefore prayed that the present bail application be dismissed.

5. I have heard learned counsel for the parties and carefully examined the material available on record. The allegation against the applicant is that he failed to produce documentary proof of Pakistani nationality and was therefore treated as a foreigner under the provisions of the Foreigners Act, 1946. At this stage, it appears that the case of the prosecution primarily hinges upon the question of nationality of the applicant, which requires proper determination after recording evidence during trial. The material presently available on record shows that the applicant has taken the plea that he is a Pakistani national and has produced certain documents including a birth certificate and CNIC of his father in support of his claim. The authenticity and legal effect of such documents are matters which can only be adjudicated after full-fledged evidence at trial. It is also noteworthy that the prosecution case mainly rests upon documentary verification and official records, and there is no allegation of recovery of any incriminating article from the possession of the applicant in the present FIR. The question whether the applicant is a Pakistani national or otherwise is essentially a disputed question of fact which requires deeper appreciation of evidence and cannot be conclusively determined at the stage of bail. Furthermore, the record reflects that investigation in the present case has already been completed and the applicant is presently in judicial custody. The applicant is not shown to be required for further investigation. The prosecution witnesses are official witnesses, therefore the apprehension of tampering with prosecution evidence appears to be minimal. It is a settled principle of criminal jurisprudence that grant of bail is a rule while refusal is an exception, particularly where the guilt of the accused requires

further probe and deeper appreciation of evidence. At this tentative stage, without touching the merits of the case, the material available on record suggests that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

6. For the foregoing reasons, this Criminal Bail Application is allowed. The applicant Ahmed Shah son of Sahib Khan is admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court in connection with FIR No.1793/2025 registered at Police Station Sachal, District East Karachi under Sections 14(i) & 14(ii) of the Foreigners Act, 1946. It is, however, observed that the findings recorded herein are tentative in nature, made solely for the purpose of deciding the present bail application, and shall not prejudice the case of either party during the course of trial.

These are the detailed reasons for the Short Order dated 19.02.2026.

**JUDGE**