

FIA Visa Fraud Bail: Supreme Court on Digital Evidence, Further Inquiry and Consistency

The Supreme Court granted bail in an FIA visa-document case on further inquiry, co-accused consistency and non-prohibitory offences, leaving digital evidence for trial.

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Supreme Court grants bail on further inquiry

The Supreme Court of Pakistan granted post-arrest bail to Syed Muhammad Ashfaq in an FIA case alleging cheating, forgery, use of forged documents and abetment in connection with visa applications. It found that the collected material did not sufficiently establish the charges prima facie and that the case required further inquiry under section 497(2) of the Code of Criminal Procedure, 1898.

The Court also relied on bail already granted to a co-accused, the non-prohibitory nature of the offences charged in this case, completion of recovery and submission of the challan. Its findings were expressly tentative and did not determine guilt or the eventual admissibility and weight of the digital evidence.

The decision is Syed Muhammad Ashfaq v The State through Deputy Attorney General of Pakistan, Criminal Petition for Leave to Appeal No. 100-K of 2026. Justice Aqeel Ahmed Abbasi authored the judgment for a Bench comprising Justice Jamal Khan Mandokhail, Justice Naeem Akhter Afghan and Justice Abbasi. The judgment is dated 24 September 2026 and gives reasons for the short order of that date. The supplied four-page copy is approved for reporting but contains no reporter citation.

The alleged visa-document scheme

FIR No. 34 of 2026 was registered at Police Station FIA, Anti-Human Trafficking Circle, Karachi under sections 420, 468, 471 and 109 of the Pakistan Penal Code, 1860. According to the FIR, the allegations followed written communication from the U.S. Consulate General, Karachi.

It was alleged that Ashfaq, President and CEO of Huqooq-ul-Ebad Development Foundation, facilitated C-2 visa applications through counterfeit documents and misrepresentation. Co-accused Muhammad Mozan Ali reportedly attended a visa interview claiming to be a Social Mobilizer for the Foundation but could not substantiate his role or credentials. Discrepancies were also reported in Khalid Saleem's application.

Those were the allegations underlying the prosecution, not final findings that Ashfaq committed forgery or received unlawful payments. The legal analysis concerns the bail record and the PPC offences charged. The name of the FIA investigative circle does not substitute for identifying those charges.

The orders challenged and the competing arguments

The trial court refused bail on 18 March 2026. The Sindh High Court, Karachi then dismissed Criminal Bail Application No. 1143 of 2026 on 18 May 2026. Ashfaq sought leave to appeal against that refusal.

His counsel argued that no tangible evidence sufficiently connected him with forgery or cheating, that the case involved further inquiry, and that co-accused Muhammad Mozan Ali had already obtained bail. Counsel also relied on the offences falling outside the prohibitory clause of section 497.

The Deputy Attorney General opposed relief. He contended that the petitioner actively facilitated visa processing through fraudulent organizational documents and received monetary consideration. The Supreme Court assessed the record rather than treating either party's assertions as established facts.

Digital evidence: tentative assessment is different from trial adjudication

Paragraph 6 is central. The Court found that the case rested on digital material whose evidentiary value remained to be established at trial. More importantly, it found the material collected so far insufficient, by itself, to establish the charges *prima facie* against this petitioner.

The Court identified authenticity, admissibility, relevance and probative worth as matters requiring examination through recorded evidence. It referred to documents and digital material such as mobile phones, audio/video recordings and electronic records. An in-depth determination of that material's evidentiary value belonged to the trial court, rather than the bail hearing.

The distinction is between the tentative assessment required for bail and a final determination of evidence. The Court did examine whether the existing record sufficiently connected Ashfaq with the charges. It did not simply refuse to look at digital material because it was electronic.

Nor does the judgment establish automatic bail whenever a prosecution relies on a phone, recording or electronic record. Its conclusion depended on the insufficiency of the material in this case, alongside the other circumstances the Court identified. A different record may support a different tentative assessment.

Further inquiry under section 497(2)

On that record, the Court held that the matter fell within section 497(2), entitling the petitioner to bail. The unresolved evidentiary questions mattered because they affected the strength of the *prima facie* connection, rather than merely because a full trial had not yet occurred.

For defence counsel, the useful argument is therefore specific: identify the material relied upon, explain the missing or unresolved connection to the accused, and show why a final conclusion would require detailed evidence inappropriate for a bail hearing. Merely repeating that digital evidence requires proof at trial does not reproduce the reasoning of this decision.

For the prosecution, the relevant response is to identify what the collected record presently establishes about the accused's role. A general allegation of fraudulent visa processing cannot substitute for the actual material connecting a particular person with the charged conduct.

The judgment did not identify a particular missing forensic report, broken chain-of-custody record or device-extraction defect. Those matters should not be invented when reporting it. Its stated finding was the insufficiency of the collected material and the need for trial examination of its evidentiary value.

Co-accused bail and the rule of consistency

Muhammad Mozan Ali had obtained post-arrest bail on 1 April 2026. His visa interview and documentation had initially triggered the investigation. The Supreme Court treated his existing bail as a further basis for granting Ashfaq the same relief under the rule of consistency.

That reasoning is linked to the prosecution's own factual setting. It does not establish that every accused named in the same FIR must receive bail regardless of role or evidence. In another case, counsel should compare the attributed conduct, material and circumstances, not rely only on the existence of a co-accused's bail order.

Here, consistency operated together with further inquiry and the non-prohibitory offences. The judgment should not be reduced to a parity claim detached from those findings.

Non-prohibitory offences and completed investigation

The Court held that the offences alleged against Ashfaq under sections 420, 468, 471 and 109, as charged here, did not fall within the prohibitory clause of section 497. It reiterated that in such cases the grant of bail is the rule and refusal the exception.

The qualification as charged here matters when applying the decision elsewhere. Counsel must check the actual offence and applicable punishment in the other case rather than assume every possible prosecution involving section 471 or abetment has identical consequences.

The Court further recorded that the material had already been recovered and the challan submitted. It considered that Ashfaq was no longer needed for further investigative inquiry and that continued detention served no useful purpose in the circumstances identified.

That reference to investigative need should be distinguished from the legal expression further inquiry under section 497(2). The investigation could be sufficiently complete for release while the strength of the prosecution case still required further judicial examination.

Authorities mentioned in counsel's submissions

Paragraph 3 records defence reliance on *Ali Anwar Paracha v The State*, 2024 SCMR 1596; *Akhtar v Khawas Khan*, 2024 SCMR 476; and *Ahmed Nawaz v The State*, 2024 SCMR 1525.

These citations appear in the account of counsel's argument. The Court's operative reasoning is in paragraph 6. This article does not present the counsel-cited cases as separate holdings expressly analysed or individually adopted by the Bench, or add unverified accounts of their facts. For the proposition decided in this case, the direct authority is Ashfaq's own judgment.

The final order and bail conditions

The Supreme Court converted the petition into an appeal and allowed it. It set aside the High Court order dated 18 May 2026 and the trial court order dated 18 March 2026.

Ashfaq was admitted to post-arrest bail on furnishing bail bonds of Rs. 200,000 with one surety in the like amount, to the satisfaction of the trial court. The judgment supplied reasons for the short order dated 24 September 2026.

The Court expressly stated that its observations were tentative and must not prejudice the trial court's decision on merits. The prosecution continues to be determined at trial; bail does not establish innocence or finally discredit the electronic material.

Practical use in FIA bail litigation

Defence counsel should place the FIR, bail orders, prosecution material, recovery record, challan and relevant co-accused bail order before the court. The application should explain the accused's alleged role and the precise evidentiary question that supports further inquiry. It should separately address the applicable punishment and the basis for consistency.

The prosecution should distinguish its allegations from what the record presently supports, identify any meaningful difference between co-accused roles and explain any genuine continuing investigative need. The court must make a tentative assessment without turning the bail hearing into a trial on authenticity and admissibility.

The case is useful for the combined operation of further inquiry, digital-material assessment, consistency and non-prohibitory offences. Each ground should be tied to the record; none should be treated as an automatic formula detached from the circumstances.

Frequently asked questions

Does reliance on digital evidence automatically entitle an accused to bail?

No. Ashfaq received bail because the collected material did not sufficiently establish the charges prima facie and the Court found further inquiry, along with other supporting circumstances. Digital evidence alone is not an automatic bail ground.

Can a bail court finally decide whether recordings and electronic records are authentic?

The Supreme Court held that an in-depth determination of authenticity, admissibility, relevance and probative worth belonged to trial after recording evidence. The bail court still makes a tentative assessment of the existing material.

Why did the co-accused's bail matter?

The co-accused whose visa interview and documentation triggered the investigation had already obtained bail. The Court applied consistency in the circumstances of this case, together with its other findings.

Was Syed Muhammad Ashfaq acquitted?

No. He obtained post-arrest bail on Rs. 200,000 bonds with one surety in the like amount. The Court expressly left the merits for trial and described its observations as tentative.

Judgment source and paragraph guide

The complete supplied four-page judgment is available through the judgment PDF download. Paragraphs 1 and 2 identify the case and allegations; paragraphs 3 and 4 record the competing submissions; paragraph 6 contains the bail reasoning; paragraph 7 states the relief and conditions. The concluding passage preserves the trial court's independent decision on merits. The article PDF is a separate explanatory publication.

Primary sources and online article

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