

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 2544 of 2023**

Applicant : Hafeez Murad
through Mr. Hafeezullah Khan Niazi, Advocate

Respondent : The State
through Mr. Muhammad Iqbal Awan, Addl.P.G.
along with S.I. Muhammad Yaseen, complainant
and S.I. Muhammad Mumtaz, I.O.

Date of hearing : 6th December, 2023

ORDER

Omar Sial, J: Hafeez Murad has sought post-arrest bail in crime number 449 of 2023, registered under sections 6, 9(2)(6) of the Control of Narcotic Substances Act, 1997. The learned 8th Additional Sessions Judge, Karachi West, dismissed his bail application on 26.10.2023.

2. Hafiz is allegedly the driver of the bus. While the bus was on its way from Turbat to Karachi, a police party stopped the bus to check and discovered 2000 grams of crystal methamphetamine underneath the driver's seat. The applicant was arrested, and the F.I.R. was lodged.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General. My observations and findings are as follows.

4. Upon a tentative assessment, I find it difficult to believe that the bus was empty, as claimed by the prosecution. The bus has a capacity of 53 persons. Still, according to the prosecution, all the passengers had disembarked earlier, and only the applicant was driving it when it was stopped and checked. It seems improbable now that an Al-Habib bus coming from Turbat to Karachi as its destination would have taken off all the passengers before the bus arrived in Mochko. When queried on this

aspect of the case, the investigating officer said that he had not investigated whether the bus was full or empty and that he went along with what the complainant (another policeman) told him. Based on such a non-existent investigation, at this preliminary stage, I cannot exclude police malafide (as claimed by the applicant), nor can a firm opinion be formed as to whether the applicant was in conscious possession of the crystal. The preceding, coupled with the fact that the applicant has no crime record, is not in a position to tamper with evidence, nor has any concern of him being a flight risk been raised, and the punishment for the offence with which he is charged falls within the non-prohibitory clause of section 497 Cr.P.C., tilts the balance for grant of bail in his favour.

5. The applicant is admitted to bail subject to his furnishing a solvent surety of Rs. 200,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE