

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
Crl. Bail Application No. S- 262 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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For Hearing

31.7.2013

Mr. Shahbaz Ali Khan Brohi, advocate for applicant.
Mr. Qazi Muhammad Bux, State counsel.

Through instant application, applicant Abdul Ghani seeks post arrest bail in crime No.107/2013 Police Station New Faujdari, Shikarpur under section 23(i)(a) of Sindh Arms Act, 2013.

2. Precisely, the relevant facts of the case are that complainant SHO Noor Muhammad Jakhro lodged F.I.R, wherein he contended that on receiving a tip-off that absconding accused namely Abdul Ghani Khoso and other 20/21 accused persons are busy in gambling with playing cards, at Gambling Den of Javed Khoonharo in Hathidar Muhalla in the common street. Pursuant to that, they reached at the pointed place and arrested applicant, from his personal search recovery of one TT Pistol was effected.

3. Learned counsel for the applicant, inter alia, contends that on same date and time in similar circumstances complainant of same police station lodged three separate F.I.Rs i.e. Crime Numbers 107, 108 and 109 of 2013 under section 23(i)(a) of Chapter 5 of Sindh Arms Act, 2013 and accused who was nominated in Crime No.109 of 2013 has been granted bail by this Court vide order dated 17-7-2013. This is a case on same footings hence he is also entitled for post arrest bail on rule of consistency.

4. On the other hand, learned State counsel does not controvert the said factual and legal position thus concedes for bail to the applicant.

5. Heard counsel and perused the record.

6. After careful consideration of contention raised by respective counsels' and perusal of available record it is an admitted position that three separate F.I.Rs were registered under section 23(i)(a) of Chapter 5 of Sindh Arms Act, 2013 and from all three applicants recovery of TT Pistols were effected; all were licensed but applicant and two

others were arrested on the allegation that they were carrying pistols, unlicensed, and the licensed pistol of applicant was shown recovered from another accused. Besides, regarding the applicability of section, I have answered the same in unreported case of Sabit Ali v. State (Criminal Bail Application No.247/2013) wherein it is held that police has misapplied Section 23(i)(a) if Chapter 5 of Sindh Arms Act, 2013 and Section 24 of Sindh Arms Act, 2013 will be applicable, which carries maximum punishment up to ten years. It will be conducive to refer the para 10 of said order, which is as under:-

“10. The joint reading of the Section-23(1)(a) and Section-24 of the Act would show that the subsection (1)(a) of Section 23 of the Act deals with situation where one acquires, possesses, carries or control any **firearm or ammunition** in contravention of Section 3 (i.e license for acquisition and possession of firearms and ammunition) while **the Section 24 of the Act** punishment for possessing **arms or ammunition** licensed or unlicensed with the aim to use them for any unlawful purpose. It is germane to append here that plain reading of section 23 and 24, elucidate that section 23 (1) a provides maximum punishment up to 14 years, whereas remaining provides ten years, thus, apparently instant case, wherein recovery is pistol, which falls within the definition of **arms** as provided in the section 2, which carries maximum sentence ten years as provided in section 24 of the Sindh Arms Act 2013”.

7. Keeping in view the given circumstances case of applicant falls within scope of further enquiry as contemplated in subsection 2 of Section 497, Cr.P.C., thus he is admitted to post arrest bail subject to furnishing surety in the sum of Rs.50,000 with P.R bond in the like amount to the satisfaction of the trial Court.

8. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.


Judge