

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S –339 of 2024

Date of hearing	Order with signature of Judge
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Hearing of bail application

- 1. For orders on office objection at flag 'A'
- 2. For hearing of bail application

14.06.2024

Mr. Shabbir Ali Bozdar, Advocate for Applicant
Mr. Imran Mobeen Khan, Assistant PG for the State

ORDER

Shamsuddin Abbasi, J.- Applicant, Abdul Hameed Mirani seeks post-arrest bail in FIR No.87 of 2024 of Police Station, Rohri for offence under Section 3/4 of Prohibition (Enforcement of Hadd) Order, 1979. After rejection of his bail plea by learned trial Court vide order dated 30.04.2024, the applicant has impugned the same before the Court of learned Sessions Judge, Sukkur whereby his bail application was dismissed vide order dated 13.05.2024, hence this application.

2. Brief facts of the prosecution case are that on 19.04.2024, complainant ASI Ghulam Shabbir Shah left police station along with his subordinate staff for patrolling. During patrolling, he received spy information that a person in a Car bearing Registration No.BEV-143 transporting a huge quantity of wine/liquor for selling. They started checking the vehicles and at 4:30 am stopped the said Car and recovered a huge quantity of wine/liquor. The police party arrested the applicant, prepared mashirnama and then brought the case property and applicant to police station and lodged the FIR, as stated above.

3. Learned counsel for the applicant submits that the alleged offence does not fall within the ambit of prohibitory clause of Section 497(i) CrPC; that Section 3 of Prohibition (Enforcement of Hadd) Order, 1979 has been misapplied by the Investigating Officer, whereas, Section 4 of Prohibition (Enforcement of Hadd) Order, 1979 provides punishment only for 02 years; that the

case has been challaned and the applicant is no more required for the purpose of further inquiry. He has relied upon the **case of Ramesh Kumar and another vs. The State reported as (2011 PCrLJ 978)**.

4. On the other hand, learned Assistant PG for the State has recorded objection on the ground that a huge quantity of wine/liquor has been recovered from the possession of applicant, therefore, he is not entitled to grant of bail. He has relied upon the case of **Raja Rai vs. The State (PLD 2002 Karachi 325)**.

5. Heard learned counsel for the applicant, learned Assistant PG for the State and perused the material available on record. Admittedly, the punishment under Section 3 of Prohibition (Enforcement of Hadd) Order, 1979 provides imprisonment upto 5 years, whereas, Section 4 of Prohibition (Enforcement of Hadd) Order, 1979 provides punishment of 2 years. Therefore, the offence does not come within the ambit of prohibitory clause of Section 497(i) CrPC. It has been now settled that in the cases in which the offence does not come under prohibitory clause, grant of bail is right and its refusal is an exception as held in the **cases of Tariq Bashir and 5 others vs. The State (PLD 1995 SC 34) and Muhammad Tanveer vs. The State and another (PLD 2017 SC 733)**. Moreover case has been challaned and applicant is no more required for further enquiry. Applicant is behind the bar since his arrest without progress in the trial.

6. In view of above, the applicant is granted post-arrest bail subject to his furnishing a solvent surety in the sum of Rs.100,000/- (One lac) and PR bond in the like amount to the satisfaction of learned trial Court.

7. The observations made herein above are tentative in nature and will prejudice the case of either party at the trial.

Judge