

38

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
Crl. Bail Appln: No.S-713 of 2023.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
-----------------	---------------------------------------

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

15.12.2023

Mr. Habibullah Ghouri, advocate for the applicant.

Mr. Ali Anwar Kandhro, Addl. P. G.

**ORDER.**

Applicant/accused Lal Bux son of Eidan Khan Mazari, seeks post arrest bail in Crime No.14/2023, for offence under section 23(i) (a) Sindh Arms Act 2013, registered at Police Station Rasaldar Kashmore at Kandhkot. The case after thorough investigation has been challaned by the police on 10.11.2023, which is now pending for trial before the learned Sessions Judge, Kashmore at Kandhkot.

2. Brief facts of the prosecution case are that on 10.11.2023, complainant ASI Abdul Rauf, lodged the aforesaid FIR alleging therein that on 10.11.2023, complainant along with his staff everyone PC Yahya Bakhtiar, PC Amir Bux, armed with respective official weapons on private vehicle left PS for patrolling, when they reached at Shahi Watercourse, received spy information that one person with Pistol standing at Gishkori Watercourse, after receiving such information, the complainant conveyed such information to his staff and proceeded to the pointed place, it was about 1400 hours, saw that one person was standing there; seeing police party accused tried to escape, the complainant party stopped their vehicle laid down and arrested the accused on the spot, due to non availability of private mashirs, complainant made PC Yahya Bakhtiar Khoso and PC Amir Bux as mashir and enquired about his name and address from accused on which he disclosed his name to be Lal Bux son of Eidan Khan Mazari,

38

r/o village Eidan Khan Mazari at present Mazari Mohalla Kashmore, therefore, on his personal search one Pistol was recovered from his left side of fold, thereafter, complainant unloaded the same and checked the magazine there was four live bullets lying in the magazine, thereafter complainant enquired about the license from accused who disclosed the pistol is unlicensed one, thereafter, complainant sealed the case property and prepared such memo of arrest and recovery in presence of mashirs and brought the case property and accused at PS and lodged instant FIR as stated above.

3. Learned counsel for the applicant submits that the case has been challaned by the police, as such, the applicant is no more required for any further investigation; in support of his contention, he submits certified copy of challan, which is taken on record. He further submits that the punishment provided by law for the alleged offence is discretionary; hence, he is entitled for the bail. He further submits that the applicant is first offender and not a previous convict, therefore, case against him requires further enquiry. In support of his contentions, he has relied upon the cases reported as Yagoob alias Lala v. The State (2016 P.Cr.L.J 1658) and Arbab v. The State (PLD 2014 Sindh 476).

4. Learned Addl. P. G, on the other hand, opposed the grant of bail, on the ground that the applicant was arrested by the police and an unlicensed Pistol has been recovered from him, which is punishable upto 14 years, therefore, he is not entitled to concession of bail.

5. It is the case of prosecution that the applicant was found in possession of an unlicensed Pistol; however, it has not been shown that why the applicant being one person was carrying lethal weapon, more particularly when he is not shown to be a previous convict or involved in any other criminal case. As far as punishment of the offence as provided by the law is concerned, per the Act, it has been left upon the

WJ

discretion of the Court which after recording evidence of the prosecution witnesses may award sentence from zero to 14 years. It is also an admitted position that the case has been challaned, therefore, the applicant is no more required for investigation purpose. There is no apprehension of tampering with the prosecution evidence. The Court while hearing bail application is not to consider the maximum sentence provided by the statute, as such, the offence does not fall within prohibitory clause of Section 497, Cr.P.C, therefore, he deserves to be released on bail.

6. Keeping in view the above facts and circumstances and in view of the principles enunciated by this Court in the reported cases of *Arbab v. The State* and *Yaqoob alias Lala v. The State* (supra) as well as in case of *Ayaz Ali v. The State* (PLD 2014 Sindh 282), the applicant/accused has been able to make out a case for grant of bail. Therefore, instant bail application is allowed and the applicant is directed to be released on bail on his furnishing solvent surety in the sum of Rs.100,000/- (rupees one hundred thousand only) and PR bond in the like amount to the satisfaction of trial Court.

Judge

M.Y.Panhwar/\*\*