

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Application No. 1674 of 2016

Date	Order With Signature Of Judge
1.For orders on Misc. 1146/17 2.for hg of bail 06.02.2017.	Ms. Zainab Khan, advocate for applicant Mr. Abdullah Rajput, A.P.G.

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, the applicant Shair Muhammad son of Dost Muhammad seeks post arrest in Crime No. 426/2016, registered at P.S. Gulshan-e-Iqbal, Karachi, under section 23(i)(A), Sindh Arms Act, 2013. His earlier bail application bearing No. 2350/2016 was heard and dismissed by the learned IVth Additional Sessions Judge, Karachi-East, vide order dated 29.10.2016.

2. As per F.I.R., the allegation against the applicant /accused is that on 10.08.2016 one Kalashnikov with 20 live bullets and 1.228 grams charas were recovered from his possession.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case; that in fact on 17.07.2016 at about 05:30 a.m. the applicant was sleeping at his house when some officials of law enforcing agency entered into the house and without any cause and reason took away him, thereafter, the mother of the applicant, namely, Mst. Sangheen widow of Dost Muhammad filed Constitution Petition

bearing No. D-4119/2016 before this Court for release of applicant, which was disposed of by Division Bench of this Court on 23.08.2016 upon the comments of DIG South Zone and SHO Baghdadi, showing that the accused was arrested in F.I.R. No. 426/2016, under section 23(i)-A and F.I.R. No. 427/2016, under section 6/9 of CNS Act of P.S. Gulshan-e-Iqbal; that in order to conceal the illegal detention of the accused, the police has falsely implicated him in two cases; that in Crime bearing F.I.R. No. 427/2016, registered under section 6/9 CNS Act, the accused has already been granted bail by the learned Special Curt No.II, C.N.S. Karachi, vide order dated 03.10.2016, hence the guilt of the accused requires further inquiry.

4. On the other hand learned A.P.G. has strongly opposed this application. He submits that not only the applicant is involved in possessing unlicensed Kalashnikov but also involved in possessing narcotics as more than 1200 grams charas has been recovered from his possession. He also submits that another F.I.R. bearing No. 86/2012, under section 13-D of Arms Ordinance is also registered against the accused at P.S. Baghdadi.

5. Heard the learned counsel for the applicant as well as learned A.P.G. and perused the material available on record.

6. It is not denied that the mother of the accused had filed Constitution Petition bearing no. D-4119 of 2016 before this Court on 21.07.2016, while the instant F.I.R. has been registered against the accused on 10.08.2016 almost after passing of twenty days of

filing of aforementioned Constitution Petition. It is, therefore, yet to be determined whether the accused was taken away by the law enforcing agency from his house on 21.07.2016 or he was arrested from Allama Shabbir Ahmed Usmani Road, Gulshan-e-Iqbal while possessing illegal arms, hence the case of the accused squarely falls within the ambit of further inquiry as envisaged under subsection (2) of section 497 Cr. P.C. Therefore, the accused is admitted to bail, subject to furnishing solvent surety in the sum of Rs.2,00,000/- and P.R. Bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention here that if applicant in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

JUDGE