

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
 Spl. Cr. Bail application No. 52 of 2019

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DATE

ORDER WITH SIGNATURE OF JUDGE

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For hearing of Bail Application.  
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**03.06.2019.**

Mr. Zafar Jawed Hashmani, Advocate for Applicant.  
 Mr. Ashiq Ali Anwar, Spl. Prosecutor / Advocate for Customs  
 alongwith I.O Saeed Faruqi.  
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**Muhammad Junaid Ghaffar J.** Through this bail application, the applicant seeks post arrest bail in Crime No. KAP/01/FIR/Boostin/2019 registered under Section 156(1), (8), (89) and (70) of the Customs Act, 1969. The applicant's bail application before the trial Court has been dismissed vide Order dated 07.05.2019.

I have heard the learned Counsel for the Applicant as well as learned Special Prosecutor on behalf of Customs Department and my observations are as under;

- (i) It appears that the Applicant/Accused was arrested along with Trolley loaded with four black colour bags large size (one suitcase / trolley bag and three hand bags outside the International Arrival at Jinnah International Airport opposite Macdonald Restaurant and was confronted as to the luggage and contraband goods available with him; but he could not satisfactorily respond.
- (ii) The stance of the Applicant as advanced by the Learned Counsel is that the Applicant was neither a passenger, nor the goods belong to him. However, while confronted as to

his availability at the Jinnah International Airport, no satisfactory response has been given.

- (iii) The allegation of the prosecution is that the Applicant had with him contraband Goods, and in terms of Section 187 of the Customs Act, 1969, the initial burden of discharge is on the person who is in possession of any goods to the effect that he is in lawful possession of the same. Once this initial burden is discharged; only then it is shifted to the prosecution. However, apparently, the Applicant/Accused has not been able to discharge such burden.
- (iv) Learned Counsel for the Applicant was confronted as why the Applicant was found in outside the arrival area of Airport, to which he could give no satisfactory reply.
- (v) It is also a matter of record; rather an admitted position that the Applicant is running business of Dairy farming and is also General Secretary of the Welfare Association namely "Karachi Dairy Milk Association", whereas, the goods in questions, injections namely "**Boostin Somatotropin**" found in his possession are used for boosting the production of milk from buffalos.
- (vi) In somewhat identical facts, this Court vide Order dated 02.04.2019, in Special Criminal Bail Application No. 09/2019 has been pleased to dismiss the bail application of the Applicant/Accused, by relying upon some *suo muto proceedings* initiated by the Hon'ble Supreme Court, wherein, it was observed that anybody involved in selling such injections shall be considered to be violating the order and to be dealt with in accordance with law.

In view of such facts and circumstances of this case, I am of the view that the Applicant / Accused has failed to make out any case for indulgence, and therefore, instant bail application is hereby dismissed.

J U D G E