

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1989 of 2021

Applicant : Mairajuddin s/o. Wajeehuddin, through
Mr. Umar Farooq, Advocate.

Respondent : The State, through Ms. Abida Parveen Channar,
Special Prosecutor A.N.F.

Date of hearing : 29.03.2022
Date of order : 29.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Mairajuddin s/o. Wajeehuddin seeks post-arrest bail in Crime No. 26 of 2021 registered at P.S. A.N.F. Clifton, Karachi under sections 6/9(c), 14, 15 of the Control of Narcotic Substances Act, 1997 (*the "Act"*). His earlier application for the same relief bearing No. 120 of 2021 in Special Case No. 52 of 2021 was dismissed by the learned Special Court-II (C.N.S.) Karachi, vide order dated 12.08.2021.

2. As per F.I.R., on 06.07.2021 at about 2100 hours, complainant Inspector Wajid Hussain alongwith ANF staff reached ANF Examination Area PICT, Karachi for checking of already hold Containers No.PCIU-0059837 and PCIU-2835441 and found two persons near the containers, who on inquiry disclosed their names as Shahid s/o Abdul Waheed clearing agent and the other as Mairajuddin s/o Wajeehuddin exporter of the consignment/shipment. During checking of the containers, the complainant Inspector recovered 240 Kgs of prohibited tablets Zanax, Diazepam etc., and after observing requisite formalities, he arrested the applicant and brought him and recovered tablets at P.S., ANF Clifton and lodged the FIR.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case; that the alleged medicines are not part of narcotics nor they are prohibited, as the same are easily available in the market; that the applicant is a licensed exporter, who has issued his Form-E to co-accused Afaq Hussain, who by using Form-E of the applicant tried to export the alleged tablets; that co-accused Afaq Hussain gave necessary undertaking with regard to non-availability of narcotic in

the alleged consignment; that the alleged documents were even not forwarded for verification by the I.O.; that the applicant had no knowledge of the alleged tablets, cancelled in the tiles nor he transported the same up to the place of its recovery; that co-accused Afaq Ahmed and Nasir have been admitted to bail by the trial Court; that the challan of this case has already been submitted; hence, the applicant is no more required for investigation purpose; that the case requires further inquiry; therefore, the applicant is entitled to the concession of bail. In support of his contentions, learned counsel has relied upon the case of *Messrs Boots Company Pakistan Limited v. Central Board of Revenue and 3 others* (1994 CLC 1144), *Muhammad Naeem and another v. The State and others* (PLD 2019 669), *The State/A.N.F. v. Aleem Haider* (2015 SCMR 133), *Gul Anwar v. The State* (2012 MLD 1521), *Muhammad Shafique v. The State* (1999 P.Cr.L.J. 830), *Jamil A. Durrani v. The state* (PLD 2003 Karachi 393), *Saeed Ahmed v. The State* (1996 SCMR 1132), *Maulana Abdul Aziz v. The State* (2009 SCMR 1210), *The state through Deputy Director Anti-Narcotic Force, Karachi v. Syed Abdul Qayyum* (2001 SCMR 14), *Sakina Bibi v. The State* (2008 SCMR 1111) and an unreported order dated 09.12.2015, passed by this Court in *Cr. Bail Applications No. 545 & 837 of 2014*.

4. On the other hand, learned Special Prosecutor A.N.F. has opposed the grant of bail to applicant on the ground that the alleged tiles were purchased from one Mehmood-ul-Haq of M/s Grand Arab Star, situated in North Karachi with the cheque of the applicant wherein alleged medicated tablets were concealed/hidden.

5. Heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears the 240 Kgs. medicated tablets, namely, Zanax, Valium (*Diazepam*) Penix, Alprazolam were attempted to ship to Saudi Arabia through a container by declaring the goods as tiles. It is an admitted position that the alleged medicines have been manufactured by the pharmaceutical companies under a license. It is yet to be determined at trial as to whether the alleged medicated and therapeutic tablets fall within the definition of narcotic drug or psychotropic substance cognizable under the Act or it is case of violation of existing Export Policy, Import and Export Control Act, 1950 or

Customs Act, 1969. Hence, the guilt of the applicant requires further inquiry. Accordingly, the instant application is allowed and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 500,000/- (*Rupees Five Hundred Thousand only*) and P.R. Bond in the like amount to the satisfaction of the trial Court.

Above are the reasons of my short order dated 29.03.2022.

JUDGE

Athar Zai