

ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.

Crl. Bail Application No.S-548 of 2022.

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DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.  
For hearing of main case

**16.05.2022.**

Mr. Gulfam Ali Narejo advocate for the applicant.  
Mr. Abdul Waheed Bajirani APG for the State.

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**ZULFIQAR AHMED KHAN,J-** By means of this application, applicant / accused Azizullah @ Aziz s/o Mako Khan, seeks post-arrest bail in Crime No.30/2022, registered at P.S, Nooriabad under section 23-A Sindh Arms Act, 2013. Earlier his bail application has been declined by learned IInd. Additional Sessions Judge, Kotri vide order dated 22.04.2022.

2. Precisely, prosecution case is that on 13.04.2022 complainant ASI with his sub ordinate staff left police station for patrolling in police mobile. After patrolling various places they reached at Eni Mill Nooriabad, when at about 2000 hours one person suddenly came on road side having gun in his hand, apprehended him and asked him about name and parentage, who disclosed his name as Aziz Palari s/o Mako r/o village Domba Goth, Karachi at present Gulab Palari Nooriabad, which was involved in Crime No.22 and 23/22, thereafter they unloaded the gun and checked it SBBL gun having one red colour cartridge inside without license and 16 bores. During searching of his body, they found three lives cartridges / bullets of 16 bores from the side of his shirt. Thereafter they recovered gun and cartridges sealed the same and prepared such mashirnama on the light of torch in presence of police mashirs and brought the accused along with recovered property at Police Station where FIR was registered.

3. Learned counsel for the applicant has contended that applicant/accused being innocent have been falsely involved in

this case; that in fact the police implicated the present applicant in series wise on the instigation of land mafia because they want to dispossess the applicant from his forefathers land and on his refusal, he has been booked in different cases with the help of police; that the name of present applicant has been inserted during investigation on the statement of co-accused, which is not admissible in Qanoon-e-Shahadat; that the place of incident is thickly and busy road of highway, but not a single private mashir has been associated in this case, so this is totally violation of the mandatory provisions of section 103, Cr.P.C; that applicant is neither desperate and hardened criminal; that no incriminating article was recovered from the possession of the applicant and the alleged recovery has been foisted upon him by the complainant party in order to strengthen the prosecution case and to show their efficiency; that all PWs are police officials and there is no apprehension of tampering with their evidence; that the case has finally been challaned, therefore, the applicant/accused is no more required for further investigation by the police; that the applicant/accused is in jail since 13.04.2022 and yet not a single witness has been examined by the prosecution. He lastly concluded that case against applicant requires further inquiry, therefore, he has prayed for grant of bail to the applicant/accused.

4. Conversely, learned APG opposed the grant of bail to the applicant by stating that he is nominated in the FIR and was arrested at the spot.

5. Arguments heard and record perused. Admittedly, investigation in the case is completed and applicant/accused is no more required for further investigation by the police. All PWs are police officials and there is no apprehension of tampering with the evidence of prosecution. The name of applicant has been shown during investigation on the instigation of co-accused. No independent mashir has been cited as mashir/witness of the recovery except police officials, therefore,

case against the applicant/accused requires further inquiry as envisaged by sub-section (2) to section 497, Cr.P.C.

6. In view of above circumstances, i am of the humble opinion that the applicant has succeed to make out a case for bail. Resultantly, instant bail application is allowed. Let the applicant be released on bail, subject to his furnishing solvent surety in the sum of Rs.50,000/-[Rupees fifty thousand only] and PR bond in the like amount, to the satisfaction of learned trial court.

JUDGE.

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