

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail. Appln. No. S – 177 of 2021

For hearing of bail application

1. For orders on office objection at flag 'A'
2. For hearing of bail application
(Notice issued)

12.04.2021

Mr. Muhammad Aslam Gadani Advocate for the Applicants
Mr. Khalil Ahmed Metlo, DPG for the State

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Aftab Ahmed Gorar, J:- Through instant Criminal Bail Application, the applicants/accused Nazeer Ahmed S/o Muhammad Qasim and Abdul Malik S/o Muhammad Sharif, seek grant of post-arrest bail in Crime No.07/2021 registered at Police Station, Mirpur Mathelo, District Ghotki, for offences punishable under Sections 3 and 4 of the Prohibition (Enforcement of Hadd) Order, 1979.

2. It is contended by learned counsel for the applicants that applicants being innocent have been involved in this case falsely by the police, as the police was demanding gratification from the applicants, which they could not fulfilled; that there is no independent eyewitness of the incident, as the alleged recovery has taken place in a thickly populated area; that all the witnesses are police officials, being subordinate to the complainant, therefore, their version cannot be believed to be trustworthy and confidence; that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C, hence they are entitled for the concession of bail; that the applicants/accused are not the previous convicts or habitual offenders. Leaned counsel lastly contended that the case has been

challaned and the applicants are no more required for further inquiry.

3. Learned Deputy PG for the State opposed for grant of bail to the applicants by contending that the applicants/accused are involved in the offence, as they were arrested by the police along with a huge quantity of wine.

4. I have heard the learned counsel for the applicants/accused, learned Deputy Prosecutor General for the State and perused the record. Admittedly, the offence with which the applicants/accused are charged does not fall within the prohibitory clause of Section 497 Cr.P.C. There is also violation of mandatory provision of Section 103 Cr.P.C as all the witnesses are police officials and no independent person has been cited as witness to the recovery proceedings though the place of recovery is shown to be a link road near petrol pump. The applicants/accused are behind the bars since last 03 months and the case has been challaned and they are no more required for further inquiry. In such situation, the instant bail application is allowed, the applicants are admitted to bail subject to their furnishing surety in the sum of ***Rs.50000/- (Fifty Thousand)*** each and PR bond in the like amount to the satisfaction of learned trial Court.

5. The observations made herein above are tentative in nature and will not prejudice the case of either party at trial.

Judge