

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**Criminal Bail Application No.48 of 2022**

Applicant : Babar Ali s/o Mumtaz Ali Chandio,  
through Mr. Muhammad Ahmed  
Laghari, advocate

Respondent : The State, through Mr. Faheem Hussain  
Panhwar, Deputy Prosecutor General.

Date of hearing : 21.03.2022  
Date of order : 21.03.2022  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant criminal bail application, applicant/accused Babar Ali s/o Mumtaz Ali Chandio seeks post-arrest bail in Crime No.458/2021, registered at P.S. Bin Qasim, Karachi, under Section 23(1)(a), Sindh Arms Act, 2013 (**the Act**). His earlier application for the same relief in Sessions Case No. 3829/2021 was dismissed by the learned IV<sup>th</sup> Additional Sessions Judge Malir, Karachi vide order, dated 24.12.2021.

**2.** Briefly stated the facts of the prosecution case, as unfolded in the F.I.R., are that on 09.11.2021 at about 02:00 a.m. at FFBL Road, near Security Check Post, Bin Qasim, Malir, Karachi, police party headed by ASI Muhammad Arshad Arain apprehended the applicant in Crime No. 457/2021, under section 392, 397/34, P.P.C. and recovered from his possession one unlicensed 32 bore loaded Revolver, for that the applicant was booked in the aforesaid F.I.R.

**3.** After hearing the learned counsel for the applicant, Deputy Prosecutor General and perusing the material available on record, it appears that police has misapplied the section 23(1)(a) of the Act, as the “revolver” does not come within the definition of “*firearm*” or “*ammunition*” referred to in section 23(1)(a) of the Act and as defined

under section 2(b) and 2(d) of the Act, respectively, but within the definition of “arms” as defined under section 2(c) of the Act, for that the punishment has been provided under section 24 of the Act with imprisonment for a term which may extend to 10 years and with fine.

**4.** It further appears that the applicant is confined in judicial custody for last more than four months and the prosecution has already submitted the challan against him; hence, his custody is no more required for investigation purpose. Under Section 24 of the Act, the punishment for possessing unlicensed arms may extend to 10 years. The discretion is; however, left open with the trial Court by the legislature either to award maximum punishment to the accused or to award lesser punishment keeping in view the surrounding circumstances commensurate with the nature of the case.

**5.** In the instant case, it is an admitted position that the applicant has already been admitted to bail in aforesaid Crime No. 457/2021 by the Court of V<sup>th</sup> Judicial Magistrate Malir, Karachi vide order, dated 20.12.2021, passed in Cr. Case No. 100/2021. As per prosecution, the alleged recovered revolver was received in the office of Assistant Inspector General of Police, Forensic Division, Sindh Karachi on 10.11.2021, whereon words and numbers “FD/FA/6399/21” were engraved, which fact is not mentioned in the F.I.R., which is a lapse on the part of the prosecution creating reasonable doubt about recovery of alleged revolver from the possession of the applicant entitling him to the bail. 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.100,000/- (Rupees One Hundred Thousand only) and P.R. Bond in the like amount to the satisfaction of the trial Court.

**6.** Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

CrI. Bail application stands disposed of.

JUDGE

*Abrar*