

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Bail Application No. 833 of 2021

Date Order with signature of Judge

For hearing of bail application

23rd June 2021

Mr. Zia-ul Haq, advocate for applicant/accused
Mr. Faheem Hussain Panhwar, DPG

Through the instant bail application, the applicant Muhammad Ismail has sought post arrest bail in FIR No. 760 of 2020 for offence under Section 25 of Sindh Arms Act 2013, registered at P.S Gulistan-e-Johar, Karachi. The applicant initially approached trial Court for post arrest bail but his bail application was dismissed.

2. Precisely the relevant facts of the case are that applicant who was arrested in FIR No. 728/2020 for offence under Section 496A PPC during investigation disclosed that he along with his companions Nadir Ali, Ashique alias Ali Nawaz Waseem used to snatch mobile phones and cash on the force of weapons from vehicles carrying vegetables and he agreed to produce the arms. Applicant led the police to bushes lying between Block 6/7 of Gulistan-e-Jauhar from where on his pointation police recovered one 7-62 Kalashnikov loaded with magazine having 155 rounds, one Carbine and two cartridges of 12 bore which were sealed at the spot in presence of mashirs. Applicant could not produce the licenses of the weapons recovered, therefore, the aforementioned FIR was registered against him on behalf of state.

3. Heard and perused the record.

4. The perusal of record reveals that after arrest of the applicant, the applicant made disclosure, whereafter on his pointation the crime weapons i.e. Kalashnikov, 155 rounds as well as carbine and two 12 bore cartridges were recovered. Though the disclosure before the police is not admissible in evidence, but where the disclosure follows the discovery of new facts, the same is admissible under Article 40 of the Qanun-e-Shahadat Order, 1984. The argument of learned counsel that in this matter no private person has been cited as a witness and the whole

case of the prosecution rest upon the evidence of police officials, therefore, false implication of the applicant in this case cannot be ruled out. I do not agree with the argument of learned counsel for the applicant as it is settled law that police personnel are as good witnesses as any other persons and private persons of the locality were not required in the case of recovery, where accused himself led the police to particular place; and had got weapons including Kalashnikov recovered in true spirit of Article 40 of the Qanun-e-Shahadat Order 1984. As regards to the argument of learned counsel for the applicant that applicant has been granted bail in other cases, therefore he is also entitled to be granted in the present matter is concerned, it is well settled that in criminal administration of justice; each case is to be decided on its' own peculiar facts and circumstances and in the present case prima facie there appear reasonable grounds for believing that applicant/ accused has committed the alleged offence which carries punishment upto ten years with fine.

5. In this matter, challan has already been submitted and at this stage, only tentative assessment is to be undertaken and no deeper appreciation of evidence is permissible. For the above stated reasons, bail application is **dismissed**.

6. Needless to mention here that observation made herein above are tentative in nature and would not influence trial Court while deciding the case of the applicant/ accused on merits.

JUDGE