

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-385 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>17.05.2023</u>	For orders on office objection. For hearing of main case.
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Mr. Dilbar Khan Laghari, advocate for the applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh along with Ameer Saud Magsi, SSP Shaheed Benazirabad and PDSP Umar Shaikh, Shaheed Benazirabad.

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Mohsin Shakeel s/o Shakeel Ahmed seeks post-arrest bail in Crime No.61/2023, registered at Police Station Airport Nawabshah for the offence under sections 9 (i), (3)C Control of Narcotic Substances Act, 1997. Earlier the bail plea of the applicant/accused was declined by the learned 1<sup>st</sup> Additional Sessions Judge/MCTC, Shaheed Benazirabad vide order dated 14.04.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused made submissions/contentions as under:-

- a). That the applicant is innocent and has falsely been implicated in this case;
- b). That the applicant is/was an employee working in Muslim Commercial Bank Sanghar;
- c). That earlier about 9/10 years ago the applicant had contracted marriage with Uzma Arain; however, near about 4/5 months back due to certain circumstances, the applicant pronounced divorce to said Uzam Arain, as such, the local M.P.A. belonging to the ruling party as well as community of said

Uzma annoyed upon the applicant, who started troubles for him and on his instigation, a serious of cases were registered against the applicant;

- d). That the applicant was involved in a crime bearing No.10/2023 under sections 393, 353 PPC of PS Bandhi and then he was involved in crime No.14/2023 under section 24/25 Sindh Arms Act, 2013, both FIRs registered by SIP Muhammad Yaseen Jamali; another FIR bearing crime No.64/2023 was registered against him for the offence under section 392 PPC by a set up person namely Muhammad Gul and this matter was investigated by SIP Suhail Ahmed Pathan at PS A-Section, Nawabshah.
- e). That the applicant got bail in said crimes and as soon as, a writ for his release was issued to concerned Jail Superintendent and when he came out from jail, applicant was again arrested by police of B-Section Nawabshah and an FIR bearing crime No.94/2023 was registered against him for the offence under section 395 PPC lodged by a set up person namely Mir Gul, who is brother of Muhammad Gul, the complainant of FIR No.64/2023 of PS A-Section, Nawabshah, this matter was investigated by Inspector Nisar Ahmed of PS B-Section, Nawabshah; and also he was involved in the present case registered by SIP Noor Aalam Qaimkhani at PS Airport, Nawabshah.
- f). That after kidnapping of the applicant at the hands of police, his brother namely Rameez Hassan preferred a Criminal Miscellaneous Application bearing No.885/2023 in terms of section 491 Cr.P.C; on filing such application, a raid was conducted at Police Station B-Section, Nawabshah. However, the applicant was stated to have been involved in the aforementioned FIRs including present FIR bearing crime No.61/2023 under section 9 (i)3C CNS Act registered by SIP Noor Aalam Qaimkhani showing recovery of 2400 grams of charas;
- g). That on account of said enmity, on the instigation of local M.P.A. belonging to Arain community, the applicant was falsely booked in serious of cases as stated above and still he

is under apprehension that after release he will be implicated in further false cases or there is possibility of his murder;

h). That the investigation of instant crime is complete; applicant is no more required for further investigation, as such, he may be ordered to be released on bail in the best interest of justice.

4. After knowing the terrible situation of involvement of the applicant, the SSP Shaheed Benazirabad was called before this Court and on the last date of hearing viz. 15.05.2023, SSP Shaheed Benazirabad was apprised with the situation, who undertook that he will take action against all the Investigating Officers/S.H.Os who have registered false FIRs against the present applicant, as such, on his undertaking, the matter was adjourned.

5. Today, Mr. Ameer Saud Magsi, Senior Superintendent of Police, Shaheed Benazirabad is present and states that he has inquired into the matters, in which the applicant was involved falsely and found him as innocent, as such, he has started departmental actions against the delinquent police officers and placed them under suspension. He has also produced a compliance report along with copies of suspension orders of the delinquent police officers, which are taken on record. The report is reproduced as under:-

**SUBMISSION (OF COMPLIANCE REPORT IN PURSUANCE OF ORDER DATED) 15.05.2023 PASSED BY THIS HONOURABLE COURT**

The Senior Superintendent of Police, Shaheed Benazirabad have the honour to submit that in pursuance of order dated 15.05.2023, passed by this Honourable Court, in connection with above instant Criminal Bail Application. The detail compliance report is furnished as under.

**SUSPENSION OF SHOs/IOS INVOLVED IN THE REGISTRATION OF UNNECESSARY CRIMINAL CASES AGAINST APPLICANT MOHSIN SHAKEEL S/O SHAKEEL AHMED JAT**

1/- The undersigned has started departmental action and placed the following SHOs/IOs under suspension due to registration of criminal cases against applicant Mohsin Shakeel S/O Shakeel Ahmed Jat. (Copy of the suspension orders are enclosed herewith as annexure A,B,C,D,E for kind perusal.

S#	Name of the SHOs	Place of Posting	Order number
1	Inspector Waseem Ahmed Mirza former SHC PS Bandhi.	SHO PS Airport Nawabshah	OB/350 dated: 15-05-2023
2	Inspector Saifullah Bughio	SHO PS A-Section Nawabshah	OB/351 dated: 15-05-2023
3	SIP Abdul Lateef Thaheem, former SHO PS B-Section	SHO PS A-Section Gupchani	OB/352 dated: 15-05-2023

	Nawabshah		
4	SIP Muneer Ahmed Jatoi former SHO PS Airport Nawabshah	Already suspended by worthy IGP Sindh	6780-93/EH/DP, Dated: 28-04-2023

S#	Name of the SHOs	Place of Posting	Order number
1	Inspector Nisar Ahmed Mughal	SHO PS B-section Nawabshah	OB/352 dated: 15-05-2023
2	SIP Suhail Ahmed Pathan	SHO PS A-Section Nawabshah	OB/352 Dated: 15-05-2023
3	SIP Ali Mardan lund former SHO PS Airport Nawabshah	(SPU) CPEC Karachi	OB/352 Dated: 15-05-2023
4	SIP Muhammad Yasin Jamali Former SHO PS Bandhi	SHO PS Bandhi	OB/352 Dated: 15-05-2023
5	SIP Khadim Hussain Khaskheli	SHO PS Bandhi	OB/352 Dated: 15-05-2023

### **SHOW CAUSE NOTICES TO THE ABOVE NAMED POLICE OFFICERS**

2/- The undersigned issued Show Cause Notices to the aforementioned Police Officers for registration of criminal cases against applicant Mohsin Shakeel s/o Shakeel Ahmed Jat.(Copies are enclosed herewith as Annexure F,G,H,I,J,K,L,M,N for kind perusal).

### **DEPARTMENTAL INQUIRY AGAINST ABOVE NAMED POLICE OFFICERS**

3/- The undersigned has nominated DSP Headquarters, Shaheed Benazirabad as enquiry officer with the directions to conduct regular departmental inquiry against above named Police Officers vide this office order No:E0/Estt:/8026-27,Dated: 15.05.2023. (Copy enclosed herewith as Annexure-O for kind perusal)

### **DISPOSAL/CANCELLATION OF CRIMINAL CASES**

It is submitted that the re-investigation of the following cases against applicant Mohsin Shakeel s/o Shakeel Ahmed Jat has been conducted by the concerned DSPs/SDPOs. The cases have been disposed of in relevant classes.

S#	CASE FIR NO. SECTIONS OF LAW	POLICE STATION	NAME OF COMPLAINANT	NAME OF ACCUSED	NAME OF FORMER IO	STATUS OF CASE
1	64/2023 U/S 392 PPC	A-Section Nawabshah	Muhammad Gul S/O Mevo Khan Brohi	Mohsin Shakeel Jat & others	SIP Suhail Ahmed Pathan	Disposed of as C-Class
2	61/2023 U/S 9(i) 3C CNSA	Airport Nawabshah	SIP Noor Alam Qaimkhani	Mohsin Shakeel Jat	SIP Ali Mardan Lund	Disposed of as A-Class
3	94/2023 U/S 395 PPC	B-Section Nawabshah	Mir Gul S/O Mevo Khan Brohi	Mohsin Shakeel Jat & others	Inspector Nisar Ahmed	Disposed of as C-Class
4	10/2023 U/S 393. 353 PPC	Bandhi	Shah Nawaz S/O Saeed Khan Jamali	Mohsin Shakeel Jat & others	SIP Muhammad Yaseen Jamali	Disposed of as C-Class
5	14/2023 U/S 24/25 Sindh arms ACT 2023	Bandhi	SIP Muhammad Yaseen Jamali	Mohsin Shakeel Jat	SIP Khadim Khaskheli	Disposed of as A-Class

**6.** After going through the report of SSP Shaheed Benazirabad, learned A.P.G. Sindh has raised no objection for grant of bail to the applicant/accused.

**7.** Heard and perused.

**8.** The report submitted by SSP Shaheed Benazirabad shows that after re-investigation, the cases registered against applicant Mohsin Shakeel son of Shakeel Ahmed Jat have been disposed of either, under 'A' class or under 'C' class. The detail of disposal of the cases has already been reproduced above in the report submitted by SSP Shaheed Benazirabad.

**9.** It is very flabbergast to note here after perusal of the report submitted by Senior Superintendent of Police, Shaheed Benazirabad that how a person, the applicant, was implicated in the false cases by debonairing his liberty infringing his rights of freedom, which at any cost is not tolerable. The Courts have always repeatedly stressed upon the freedom of the citizens as it is basic fundamental right of the people; however, in the instant case, it apparently appears that the situation leads to the destruction of the rights and freedoms, which though are guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.

**10.** The father of applicant namely Shakeel Ahmed Jat is present and shown grave concerns about behavior of police that since his son, the applicant, has been implicated in false cases, as such, he is apprehending that after release, he will again be implicated by the police in further false cases and submitted that after facing this situation he has not mental capacity to face further. He, therefore, requested that their family including applicant who has already been deprived of his liberty may kindly be provided protection.

**11.** After considering the above facts and circumstances coupled with the report submitted by Senior Superintendent of Police, District Shaheed Benazirabad, the order is passed in the following terms:-

(A). In view of the re-investigation made by the Senior Superintendent of Police, Shaheed Benazirabad, facts and circumstances discussed in the instant order, the recovery of

2400 grams appears to have been foisted upon the applicant/accused. Accordingly, the applicant/accused namely Mohsin Shakeel son of Shakeel Ahmed is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.5000/- (Rupees five thousand only) and PR bond in the like amount, to the satisfaction of learned trial Court.

- (B). As far as the involvement of the applicant/accused in other cases is concerned, the SSP Shaheed Benazirabad has reported in his report filed today that after re-investigation the cases have been disposed of either under 'A' class or 'C' class, as such, the concerned Magistrates/trial Courts, where the cases against the applicant/accused are pending, are directed to dispose of the same in the light of observations made in the instant matter coupled with the report of SSP Shaheed Benazirabad, within fifteen days from today and submit such compliance report.
- (C). That the applicant is also at liberty to submit certified copy of this order before the learned trial Court(s) where cases are pending against him for his premature acquittal by filing application under section 249 or 265-K Cr.P.C. as the case may be.
- (D). It is expected that the Senior Superintendent of Police, Shaheed Benazirabad will look into the matter and supervise the departmental inquiry against the delinquent police officers.
- (E). So far the apprehension shown by the father of applicant with regard to implication in further false cases to the applicant and his family members is concerned; suffice to say that the courts have always ruled that no discrimination or violation is to be made to the human rights in any manner. Such infringement *prima facie* appears to have been occurred with the applicant, who though has been implicated under the cover of penal law but actually after reinvestigation of the cases as reported by SSP Shaheed Benazirabad, the applicant is found innocent, as such, the version taken by the applicant that due to enmity with Arain community, he is being involved in the serious of cases inspires confidence. Accordingly, the Senior Superintendent of Police, Shaheed Benazirabad is directed to ensure that no harm is caused to the applicant or his family members; in case, any harm is caused or reported, the SSP Shaheed Benazirabad shall himself be responsible.
- (F). Further, it is essential to note that a series of the cases has been registered against the applicant due to enmity with the Arain community after divorce to one Uzma by the applicant, as such,

SSP Shaheed Benazirabad is restrained from registration of further cases within his jurisdiction against the applicant or his family members without prior permission of learned Sessions Judge, Shaheed Benazirabad. It is made clear that in case, if it is found that any offence is committed by the applicant or any of his family members, it is necessary to get prior permission for registration of such case from the learned Sessions Judge, Shaheed Benazirabad or learned Sessions Judge, Sanghar as the applicant is inhabitant of District Sanghar.

**12.** Let copy of this order be sent to the District & Sessions Judge, Shaheed Benazirabad, District & Sessions Judge, Sanghar, Senior Superintendents of Police, District Shaheed Benazirabad and Sanghar, for information and compliance over fax.

JUDGE

\*Abdullah Channa/PS\*