

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-311 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>15.05.2023</u>	For orders on office objection. For hearing of main case.
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Mr. Mumtaz Sachal Awan, advocate for the applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh along with Qurban Ali Rajpar, SHO PS Bukera Sharif.

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Abdul Baqi seeks pre-arrest bail in Crime No.27/2023, registered at Police Station Bukera Sharif, District Tando Allahyar for the offence under section 8<sup>th</sup> (i) of SPPMSSUGM Act-2019. Earlier the bail plea of the applicant/accused was declined by the learned Sessions Judge, Tando Allahyar vide order dated 31.03.2023.

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. At the very outset, learned counsel for the applicant/accused submits that due to death of the near relative of the applicant/accused, he is unable to attend this Court, as such, he requests that his attendance may kindly be excused. At his request, the attendance of the applicant/accused is hereby condoned.

4. Learned counsel for the applicant has argued that the applicant/accused is innocent and has falsely been implicated in this case; that the story narrated in the FIR is false and concocted one; that the offense with which the applicant/accused is charged does not fall within the ambit of prohibitory clause of section 497 (1) Cr.P.C. He further contended that the applicant/accused is neither previous convict nor criminal, dangerous or desperate as is evident from the report called by this Court, wherein the concerned I.O. has reported that the applicant/accused is not involved in any other case except in hand; that the applicant/accused is behind the bars and no purpose would be served if he is kept in Jail for an indefinite period notwithstanding that the investigation is complete and applicant/accused is no

more required for further investigation; that *prima facie*, the applicant/accused requires further inquiry. Learned counsel for the applicant/accused prayed for grant of bail to the applicant/accused.

5. On the other hand, learned A.P.G. Sindh has vehemently opposed the grant of bail to the applicant/accused.

6. Heard and perused the record.

7. Admittedly, maximum punishment of the offense with which the applicant/accused is charged is only three years, which does not fall within the prohibitory clause of section 497 (1) Cr.P.C. There is no record against the applicant/accused as per reported submitted by the I.O. of the case, as such, he appears to be not involved in similar type of the offense. Investigation is complete. He is no more required for further investigation. Further, it is the well-settled principle of law that at the bail stage only a tentative assessment is to be made. In view of the above facts and circumstances, learned counsel for the applicant/accused has succeeded to make out the case for further inquiry as envisaged in subsection 2 of section 497 Cr.P.C. Consequently, instant criminal bail application is **allowed** and the interim pre-arrest bail already granted to the applicant/accused by this Court vide order dated 07.04.2023 is confirmed on the same terms and conditions as laid down therein.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE