

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Criminal Bail Application No.S-384 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>10-05-2023</u>	For orders on office objection. For hearing of main case.
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Applicant is present on interim pre-arrest bail.

Mr. Aslam Parvez Khan, advocate for applicant.

Mr. Shawak Rathore, Deputy Prosecutor General Sindh.

Amjad Ali Sahito, J:-- Through instant bail application, the applicant/accused namely, Sher Khan seeks post-arrest bail in crime No.20/2023 registered at PS B-Section, Latifabad Hyderabad for the offence under section 9-1 (1) C CNIS (Amended) Act, 2022. Earlier, the bail plea of the applicant/accused was declined by the learned MCTC-II/Additional Sessions Judge-IV, Hyderabad through order dated 18.04.2023.

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

3. Case of prosecution is that the police officials were on patrolling and arrested one Muhammad Akram. From his search, one katta was recovered and on opening, 'Bhung' was found in it. At the time of recovery, the present applicant/accused was stated to be in accompany with main accused Muhammad Akram, who disclosed the name of applicant/accused. Learned counsel for the applicant/accused submits that on the basis of statement made by co-accused, the applicant/accused has been implicated in the instant crime. Learned counsel for the applicant/accused has also pleaded *mala fide* on the part of police due to previous enmity. He prayed for confirmation of interim pre-arrest bail to the applicant/accused.

4. On the other hand, learned D.P.G. has raised no objection for confirmation of bail on the ground that it is yet to be seen whether the applicant/accused was present at the place scene or not.

5. Heard and perused.

6. With no denial, the applicant/accused has been implicated in the instant case on the basis of statement made by co-accused Muhammad Akram Khan, who was arrested on spot along with case property; and such statement is not admissible under Article 38 of Qanoon-e-Shahadat Order, 1984. It is also fact the recovery was not effected from the applicant/accused. Learned counsel for the applicant/accused has also pleaded *mala fide* on the part of police on account of previous enmity. No criminal record has been brought on record to show as to whether the applicant/accused is habitual offender in the like offenses or not. So far the involvement of the present applicant/accused on the basis of statement of co-accused is concerned, it is yet to be determined at the trial after recording evidence of the prosecution witnesses as to whether he was accompanied with the main accused being a member for such offence. No purpose shall be served if the applicant/accused is kept behind the bars for an indefinite period even his detention will not improve the prosecution case. In view of the above, applicant has made out the cases for further inquiry. Consequently, interim pre-arrest bail granted to the applicant/accused is hereby confirmed on the same terms and conditions as laid down in the earlier order dated 20.04.2023.

7. 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