

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-372 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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16.05.2023

For orders on office objection.
For hearing of main case.

Mrs. Razia Ali Zaman, advocate for the applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicant/accused namely, Tofique Ahmed seeks post-arrest bail in Crime No.38/2022, registered at Police Station Matli, District Badin for the offence under section 8 of SPPMSSUGM Act-2019. Earlier the bail plea of the applicant/accused was declined by the learned Additional Sessions Judge, Badin vide order dated 15.03.2023.

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. Learned counsel for the applicant has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that out of 250 mainpuries, only 05 mainpuries were sent to the chemical examiner and remaining alleged recovery has not been sent so that it could be said that these were mainpuries. Learned counsel contended that the applicant/accused is heart-patient is confined in Jail and he is no more required for further investigation. Learned counsel further contended that the offense does not fall within the prohibitory clause of section 497 (1) Cr.P.C. and grant of bail is rule while refusal is an exception. Lastly, learned counsel for the applicant/accused prayed for grant of bail to the applicant/accused. In support of her contentions, she has produced medical record of the applicant/accused along with statement.

4. On the other hand, learned A.P.G. Sindh has opposed the grant of bail to the applicant/accused and contended that the applicant/accused is involved in nine cases, as such, he is habitual offender and does not deserve concession of bail.

5. Heard and perused the record.

6. Admittedly, apart from instant case, the applicant/accused is involved in nine other criminal cases. It appears that after grant of bail, the applicant/accused indulges himself in the similar type of offences. So far contention raised by the learned counsel for the applicant/accused that offence does not come within the ambit of prohibitory clause of section 497 (1) Cr.P.C. The grant of bail is a rule and refusal is an exception. It is suffice to say that after grant of bail, again and again *prima facie* the applicant/accused has repeated to commit similar type of offence, as such, he has misused the concession of bail. *Prima facie*, no convincing reasons have been disclosed for false implication of the applicant/accused with such recovery of material, which is injurious to the humans. Since no ill will or enmity with police is alleged, therefore, in such circumstances at this stage, the applicant/accused does not deserve concession of bail. Consequently, instant criminal bail application is **dismissed**. However, the learned trial Court is directed to expedite the trial and dispose it of within a period of thirty (30) days. No adjournment shall be granted to either party on any flimsy ground.

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