

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-407 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

For orders on office objection.
For hearing of main case.
18.05.2023

Mr. Naeem Hussain, advocate for the applicant.

Mr. Imran Ahmed Abbasi, A.P.G. Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicant/accused namely, Imran @ Muhammad Imran seeks post-arrest bail in Crime No.31/2023, registered at Police Station Daulatpur for the offence under section 3 / 4 Prohibition (Enforcement of Hadd) Order, 1979. Earlier the bail plea of the applicant/accused was declined by the learned trial Court/Civil Judge & J.M-I, Daulatpur vide order dated 18.04.2023 and then learned Vth Additional Sessions Judge (MCTC), Shaheed Benazirabad vide order dated 20.04.2023.

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. Per learned counsel for the applicant, the applicants is innocent and has falsely been implicated in this case; that the role assigned against the applicant/accused is that police has recovered one shopper bag containing 22 bottles of whisky wine which fall offence under section 4 Prohibition (Enforcement of Hadd) Order, 1979, which is punishable upto two years, as such, it 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; 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.

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

5. Heard and perused the record.

6. Admittedly, the allegation against the applicant/accused is that he was possessing whisky/liquor bottles, which is falling under section 4 Prohibition (Enforcement of Hadd) Order, 1979 i.e. owing or possessing intoxicant and punishment of the offence with which the applicant/accused is charged is upto two years, as such, the offence does not fall within the prohibitory clause of section 497 (1) Cr.P.C. No record has been brought on record by the prosecution to show as to whether the applicant/accused is previous convict or criminal, hardened and desperate or involved in similar type of the offense. He is behind the bars and no purpose would be served to detain the applicant/accused in incarceration for an indefinite period keeping in view that if after long run he is acquitted of the charge, nothing will bear his liberty. Further, it is the well-settled principle of law that at the bail stage only a tentative assessment is to be made.

7. 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 applicant/accused is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.25,000.00 (Rupees twenty five thousand only) and PR bond in the like amount, to the satisfaction of learned trial Court.

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