

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-402 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>11.05.2023</u>	For orders on office objection. For hearing of main case.
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Applicant is present on interim pre-arrest bail.

Mr. Lal Chand, advocate for the applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Muhammad Ashfaque seeks pre-arrest bail in Crime No.28/2023, registered at Police Station Tando Ghulam Hyder for the offence under section 8 SPPMSGM Act, 2019. Earlier the bail plea of the applicant/accused was declined by the learned Additional Sessions Judge-I, Tando Muhammad Khan vide order dated 27.04.2023.

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 has mainly argued that the applicants/accused is innocent and has falsely been implicated in this case; that the story narrated in the FIR is false and concocted one; that investigation is complete and applicant/accused is no more required for further investigation; that the punishment of the offence is maximum three years, which does not come within the ambit of prohibitory clause of section 497 (1) Cr.P.C. 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 opposed the grant of bail to the applicant/accused and contended that the applicant/accused was involved in similar type of case being crime No.106/2022 under section 8-SPPMSGM Act, 2019, as such, due to this reason, the complainant knew the applicant/accused. She further contended that after grant of bail, the applicant/accused involved himself in similar type of offence, as such, he does not deserve for concession of bail.

5. Heard and perused the record.

6. From the perusal of record, it appears that before this crime, the applicant was also booked in the similar nature offence being crime No.106/2022 under section 8-SPPMSGM Act, 2019 and after grant of bail in that offence, the applicant/accused indulged himself in the instant similar type of offence. In the instant case, the applicant/accused succeeded to flee away from the place of incident while seeing the police party. The complainant searched place and found huge quantity of total 20200 menpuries. 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, once 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 huge 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** and interim pre-arrest bail earlier granted to the applicant/accused vide order dated 28.04.2023 is hereby recalled.

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 applicants on merits.

JUDGE