

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

Criminal Bail Application No.S-475 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.

22-06-2023

Mr. Farhad Ali Abro, advocate along with applicants, who are present on interim pre-arrest bail.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

MUHAMMAD IQBAL KALHORO, J: - On spy information, SHO PS Tando Ghulam Hyder District Tando Muhammad, on patrol duty with his team, raided a hut near village Khair Muhammad Khoso and spotted applicants and co-accused Ashfaque Rajput, absconder, along with huge quantity of mainpurie available there for selling purpose. The accused seeing the police made their escape good. The police however succeeded in recovering 94 kilograms of mainpurie powder and thousands of wrappers having mainpurie. This whole recovery was notified under police docket and out of entire quantity only 500 grams mainpurie powder and 10 wrappers having mainpurie were separated for examination by Lab. The entire property was brought at PS and FIR was registered accordingly.

2. Learned counsel submits in defense that applicants have been implicated falsely by the police; that only very small quantity out of entire property has been sent for lab report, therefore, applicants would be only held responsible for that quantity, if at all; that minimum punishment for the alleged offence is only one year and maximum is three years; that offence does not fall within prohibitory clause of section 497 (1) CrPC; that there is only one case of similar nature registered against applicant Fida Hussain but he has not been convicted ever.

3. On the other hand, learned Assistant P.G. has opposed bail to the applicants.

4. I have considered submissions of parties and perused material available on record. Although, it is alleged that huge quantity of mainpurie powder was recovered from the spot but only 500 grams of such powder and 10 wrappers having mainpurie were sent for chemical analysis. The question whether applicants would be held

responsible for only mainpuries sent to Lab for chemical analysis or entire property is yet to be determined in the trial. Although against applicant Fida Hussain there is one case of similar type but it is admitted position that he is not a convict. Escape of accused from the place of incident in presence of police, which *prima facie* did not make any attempt to nab them, is another factor which makes the case against the applicants to be of further inquiry. Therefore, while keeping these facts and circumstances coupled with the fact that offence is only punishable maximum for three years, this application is **allowed** and the interim pre-arrest bail already granted to applicants is **confirmed** on the same terms and conditions as laid down in the earlier order dated 15.05.2023.

5. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE

Abdullah Channa/PS