

**HIGH COURT OF SINDH, CIRCUIT COURT AT  
HYDERABAD**

**Cr. Bail Application No.S-136 of 2023**

*[Shah Nawaz versus The State]*

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
Applicant:	Through Barrister Munawar Ali Dal
The State:	Through Ms. Sana Memon, Assistant P.G
Dates of hearing:	30.03.2023
Date of Decision:	30.03.2023

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**ORDER**

**MUHAMMAD FAISAL KAMAL ALAM J.** – Applicant/Accused has been booked in FIR lodged in Crime No.210 of 2022 under Section 3 and 4 of The Prohibition (Enforcement of Hadd) Order 1979 at P.S Talhar. As per contents of FIR, lodged by ASI Sikander Ali, that during patrolling when police party reached at Mill Bypass Road at Dargah Roshan Shah, they stopped a Rikshaw, wherefrom one person jumped out and escaped towards forest, whereas Driver of Rikshaw, that is, present Applicant/Accused was apprehended and from the rear seat of Rikshaw they recovered 24 wine bottles. A bottle was sent for chemical examination.

2. Learned counsel for the Applicant contended that guilt of the Applicant/Accused is yet to be determined, which requires further inquiry and trial; further contended that his alleged confession, as mentioned in FIR, is not admissible; that punishment prescribed for the alleged offence is five years, which does not fall within the prohibitory clause of Section 497 Cr.P.C; since 31.12.2022 Applicant/Accused is behind Bars; that challan has been submitted, therefore, Applicant/Accused is not in a position to interfere in the investigation; that co-accused Muhammad Juman has already been granted bail by this Court. He has cited the Decision reported in 2006 YLR 3087 [KAREEM BUX versus THE STATE].

3. Learned APG yesterday has placed on record CRO of both accused, according to which number of cases have been registered against co-accused Muhammad Juman, but the Applicant/Accused is involved in present Crime bearing No.210 of 2022, however, she has opposed the bail.

4. Heard the arguments and record perused.

5. Contentions of Applicant/Accused appears to be correct. Undisputedly challan has been submitted before the learned Trial Court, therefore, Applicant/Accused cannot interfere in the investigation or influence the witnesses, who are police officials. File of Criminal Bail Application No.S-56 of 2023, moved by co-accused Muhammad Juman was called vide Order dated 29.03.2023, perusal of which shows that he was granted bail primarily on the ground that nothing was recovered from his exclusive possession and the punishment of the offence alleged is five years and does not fall within the prohibitory clause of Section 497 Cr.P.C. Conversely Applicant/Accused is not involved in any other criminal case, as against his co-accused (booked in other criminal cases as per CRO). Secondly, the offence alleged against him does not fall within the prohibitory clause of Section 497 Cr.P.C. The judgment reported in 2006 YLR 3087 handed down by this Court in the case of Kareem Bux is relevant. Since co-accused has been granted bail, therefore, in my view concession of bail can be extended to the Applicant/Accused (considering rule of consisting), who is behind Bars since three months. Accordingly benefit of concession of bail is extended to Applicant/Accused, subject to his furnishing solvent surety in the sum of Rs.50,000/- and P.R Bond in the like amount to the satisfaction of the learned Trial Court.

6. It is made clear that any observation made herein above are tentative in nature and the same would not prejudice the trial. Learned Trial Court is empowered to pass any necessary order, if the concession of bail is misused by the Applicant/Accused.

Captioned bail application stands disposed of accordingly.

**J U D G E**

Sajjad Ali Jessar