

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 196 of 2023

For hearing of Bail Application.

Applicants/ Accused : Abdul Ali son of Abdul Ghani and Zaman Ullah son of Abdul Quddus through Mr. Saifullah Abbasi, Advocate.

Complainant/State : Through M/s. Rahat Ehsan, Addl: P.G. & Gulfaraz Khattak, Assistant Attorney General a/w SIP; Abdul Majeed & ASI; Muhammad Nawaz, P.S. Ibrahim Hyderi, Karachi.

Date of hearing : 22-03-2023

Date of order : 22-03-2023

FIR No.521/2022
U/s: 14(2) Foreigner Act, 1946
P.S. Ibrhaim Hyderi.

ORDER

Adnan Iqbal Chaudhry J. - The Applicants/ Accused namely; Abdul Ali and Zaman Ullah seek post-arrest bail in the aforesaid crime after the bail was declined by the Sessions Judge, Malir, Karachi, vide order dated 09-01-2023.

2. The Applicants who are nationals of Afghanistan were arrested from the road-side on the suspicion that their entry into Pakistan was in violation of the Foreigners Act, 1946. The Applicants claimed to have been issued Afghan Citizens Cards [ACC] by the Government of Pakistan, which are issued to Afghan Refugees in Pakistan. Therefore, *prima facie* this is not a case attracting section 14(2) of the Foreigners Act, 1946, rather a case attracting section 14(1) of said Act where the Applicants/refugees were found outside the area prescribed for their stay under section 3 of the Foreigners Act, 1946, and for which the maximum punishment prescribed is 3 years.

3. Learned APG and Assistant Attorney General place reliance on the letter dated 27-08-2021 issued by the Ministry of States & Frontier

Regions, which states that the Government of Pakistan intends to issue smart cards to Afghan Refugees to replace the previous cards held by them. It is essentially contended by the APG that since the Applicants did not possess such smart cards, they are suspected of the offence alleged. Reliance on said letter appears to be misconceived as the cut-off period given in such letter for issuing smart cards appears to be only tentative and in any case would still not attract section 14(2) of the Foreigners Act, 1946, and consequently, the restriction on bail in section 14(A) of said Act is also not attracted.

4. For the foregoing reasons, the Applicants are granted bail subject to furnishing solvent surety in the sum of **Rs. 50,000/- [Rupees Fifty Thousand Only]** each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

SHABAN*

JUDGE