

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.D- **83** of 2023
(*Muhammad Yousif Kalwar v. The State*)

Present:-
Mr. Justice Muhammad Iqbal Kalhoro &
Mr. Justice Arbab Ali Hakro

Mr. Alam Sher Khan Bozdar, Advocate for the applicant.
Syed Sardar Ali Shah, Additional P.G for the State.

Date of Hearing & Order: **30-11-2023**

ORDER

MUHAMMAD IQBAL KALHORO, J. – Complainant SIP-Sajid Ali Gadani of P.S, CTD, Sukkur along with his team arrested applicant and two other accused while travelling in a Cultus car from near shrine of Peer Musafir on a link road leading to Jaffarabad near Hira Residency on 14.08.2023 after finding them suspicious and recovered from their possession, 20 non-electrical detonators, 03 hand-grenades, one timer, nut-bolts, ball-bearings and nails, 500 grams, explosive powder, 400 grams, safety fuse wires, 15 feet and some cash. Such memo of arrest and recovery was prepared and they were brought at P.S and booked in the present case.

2. Learned defense counsel submits that applicant has falsely been implicated in this case; no recovery was effected from him; in fact, on 17.07.2023, he was picked up by Law Enforcement Agencies and thereafter went missing. Such news on social medial went viral on News Alert, Sindh/Ghotki. More so, the case has been challaned and applicant is no more required for further investigation. He has relied upon case law reported as **2017 SCMR 560** and **2023 MLD 271** to support his arguments.

3. Learned Additional P.G has opposed bail and has relied upon case law reported as **2020 SCMR 1672** and **2018 YLR Note 87** to rebut the arguments of defence counsel.

4. We have considered submissions of parties. From applicant and other co-accused, huge quantity of explosive and other articles, which can be used for making bombs and detonating them, have been recovered. There appears to be no enmity between applicant and the police officials to give rise to a presumption of false implication of the applicant. The news of arrest of applicant and other accused by Law Enforcement Agencies on 17.07.2023 on social media has not been subjected to forensic examination and its authenticity is yet to be determined by the trial Court. *Prima facie*, there is sufficient evidence in the shape of recovery connecting the applicant with the alleged offence. More so, learned APG has informed that after framing of charge, on the last date of hearing, three witnesses were present, but applicant and other accused did not proceed with the matter. He has further submitted that on 06.12.2023, the case is again fixed before the trial Court and he would make sure that witnesses are produced there.

5. Therefore, we are of the view that unless material witnesses are examined by the trial Court and news of arrest of applicant and other accused on 17.07.2023 by Law Enforcement Agencies is not confronted to the witnesses, nothing can be said about its authenticity, nor can any opinion be formed about it. Therefore, while **dismissing** the bail application, we direct the trial Court to examine witnesses on 06.12.2023 without fail. Notwithstanding, and thereafter within two months, in any case, applicant would be entitled to file a fresh bail application before the trial Court, which shall be decided on its own merits.

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

JUDGE

JUDGE

Ahmad