

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.D-64 of 2023

[Azizullah @ Pajoo versus The State]

Before:-

Mr. Justice Mahmood A. Khan

Mr. Justice Zulfiqar Ali Sangi

Applicant : Through Mian Taj Muhammad Keerio advocate
State : Through Mr. Shawak Rathore D.P.G a/w IO Aijaz
Date of hearing : 05.09.2023
Date of Order : 05.09.2023

ORDER

MAHMOOD A. KHAN J:- Applicant seeks post-arrest bail in Crime No.07 of 2023 registered with C.T.D District Hyderabad for offences punishable under Sections 11-F(6), 11-H(i), (ii) and 11-N of Anti-Terrorism Act 1997 read with Section 14 of Foreigner Act, 2016, after rejection of his plea for the same relief by the learned trial Court vide Order dated 27.06.2023.

2. Complainant ASI Liaquat Ali of C.T.D Hyderabad had lodged the above FIR on 28.04.2023, stating therein that on said date he alongwith his subordinate staff was on patrolling duty, during which he received spy information about availability of one terrorist of banned Organization Sipah-e-Sahaba near Quba Mosque Karimabad Colony Tando Jam, who was allegedly collecting funds for said banned Organization. On receiving such information, they alongwith informer proceeded towards pointed place and saw one person standing over there, who on seeing the police party tried to escape, but they caught hold him on the spot. The apprehended accused disclosed his name as Azizullah @ Pajoo. The said accused, as alleged, further disclosed that he is Afghani and do not possess CNIC and residing in Pakistan since long and raising funds for above said banned Organization. From the plastic shopper, allegedly holding by said person, police recovered two receipts of book, on which word Sipah-e-Sahaba was written, and cash amount of Rs.7,500/- which allegedly he had collected for banned Organization. One ball pen and mobile phone was also allegedly recovered from said person.

3. Learned counsel for the applicants argued that applicant is innocent and has falsely been implicated in present crime; that no material has been placed on record, which may show that applicant belongs to banned Organization; that though police had advance information, yet no private mashir has been associated;

that applicant is not a foreigner rather he is Pakistan nationalist, which is supported by the fact that his birth certificate was issued by the NADRA, so also NICs of his parents; that allegations levelled against the applicant requires further inquiry, as such he may be admitted to bail.

4. Conversely, learned Deputy Prosecutor General opposed the bail application and prayed for its dismissal.

5. We have heard the learned counsel for the applicants as well as learned D.P.G and have also gone through the record with their able assistance.

6. The allegation against the applicant, per FIR, is that he belongs to a banned Organization, however, at this stage, the Investigation Officer of the case, present, is unable to show any material, which may substantiate this allegation in order for us to consider the matter other than that of further inquiry. As far as recovery of cash amount and mobile phone are concerned, again there is no material, at this stage, as to whether applicant was in contact with the members of any banned Organization and/or from whom he has collected the alleged cash amount. The other allegation against the applicant, per FIR, is that he is foreign nationalist, however, the learned counsel for the applicant, during course of arguments, vehemently argued that applicant took birth in Pakistan and his birth certificate was issued by the NADRA so also NICs of his parents, but the Investigation Officer, present, has failed to controvert the said arguments by way of investigation in this regard at this stage.

7. The above discussion led us to hold that applicant has made out his case of further inquiry. Accordingly captioned bail application is allowed and in result whereof applicant is admitted to post-arrest bail in present crime, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and a P.R Bond in the like amount to the satisfaction of learned trial Court. It is, however, observed that learned trial Court is competent to take necessary action against the applicant in accordance with law without making any reference to this Court, in case he misuses the concession of bail at any stage.

8. Needless to mention here that observations made above are tentative in nature and the same shall not prejudice the case of either party at trial.

Captioned bail application stands disposed of accordingly.

JUDGE

JUDGE

Sajjad Ali Jessar