

# THE HIGH COURT OF SINDH, KARACHI

## Spl. Cr. Bail Application No. 46 of 2023

### For hearing of Bail Application.

Applicant/Accused : Victor Shahbaz son of Wafati Das through M/s. Riaz Ahmed Phulpoto and Nusrat Sultan, Advocates.

Complainant/State : Through Mr. Ashiq Ali Anwar Rana, Special Prosecutor Customs.

Date of hearing : 05-09-2023

Date of order : 05-09-2023

*FIR No. 02/2023  
U/s: 32, 32A, 79 & 192 of the Customs Act, 1969  
Punishable under Clauses 14, 14(A), 43, 47, 77(i)  
and 82 of Section 156(1) of the Act ibid.*

## ORDER

**Adnan Iqbal Chaudhry J.** - This is an application for post-arrest bail in the aforesaid crime after the same had been declined by the Special Judge (Customs, Taxation and Anti-Smuggling), Karachi, by order dated 14-07-2023.

2. Heard learned counsel for the Accused, the Special Prosecutor Customs, and perused the record.

3. The FIR lodged on 03-05-2023 by the Directorate of Transit Trade, Karachi, was that Lot No. K-03/JAN-2012 comprising 17,840 kilograms goods (printed ladies fabric, polyester fabric, cotton fabric in cut pieces) had been released to one Ali Akbar Shah as auction purchaser; but the underlying documents revealed that the goods had been delivered on forged and fabricated documents; that though the delivery order was dated 25-05-2022, the signatures thereon by Customs Officers were dated 16-04-2020 which suggested that the auction was a sham and a fiscal fraud. The Accused was not nominated in the FIR. He was arrested after having been implicated in the interim challan dated 23-05-2023 on the ground that his

signature appeared on the delivery order of the goods as the Auctioneer, 'Ashar and Brothers'.

4. As per the statement of the Accused recorded by the I.O., the Accused denies that he had ever conducted that auction or signed the delivery order; he stated that his signature on the delivery order have been forged by someone; and that he was not even performing the function of an Auctioneer at the relevant time. While there is a report of a hand-writing expert that the disputed signatures are of the Accused, that evidence has yet to be tested before the trial Court.

5. The documents in question also consist of vouchers portraying deposit of the auction amount with the NBP, and the interim challan is vague as to whether those vouchers have been verified by the bank or not.

6. Of the alleged offences, only the offence punishable under clause (40-A) of section 156(1) of the Customs Act, 1969 is punishable by imprisonment which may extend to ten years. For that, the case against the Accused is clearly one of further enquiry falling within the ambit of sub-section (2) of section 497 CrPC. In the meanwhile, it is not being contended that custody of the Accused is required for further investigation, or that he is likely to tamper with the evidence if released, or that he is a flight risk. Therefore, to keep him behind bars during trial serves no purpose.

7. For the foregoing reasons, the Accused Victor Shahbaz is granted post-arrest bail in FIR No. 02/2023 subject to furnishing surety set-out in the order dated 07-08-2023.

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

**JUDGE**

SHABAN\*