

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 2014 of 2023

For hearing of Bail Application.

Applicant/Accused : Zahoor Ahmed son of Imam Bakhsh through M/s. Mallag Assa Dashti and Zulfiqar Ali Mirjat, Advocates.

Complainant/State : Through Mr. Siraj Ali Khan Chandio, Additional Prosecutor General Sindh.

Date of hearing : 11-10-2023

Date of order : 11-10-2023

*FIR No. 224 of 2023
U/S: 3, 4, 13-A & 14 of Foreigners Act
P.S. Kalakot, Karachi*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant/Accused seeks post-arrest bail in the aforesaid crime after the same was declined by the Additional Sessions Judge-IX, Karachi (South) by order dated 08.09.2023.

2. Since the FIR is under the Foreigners Act, 1946, notice was issued both to the Assistant Attorney General and the Additional Prosecutor General. The Assistant Attorney General is not present today nor was he present on the last date. The Addl. P.G. states that he is unaware of the matter although the last order reflects that the Additional Prosecutor General had received a copy of memo of bail and waived notice. Under such circumstances, I am not inclined to adjourn the matter.

3. As per the FIR, lodged on 23.08.2023, the Applicant was arrested along with one Akheel Dev, when the latter was found to be an Indian national carrying an Indian passport without a visa for Pakistan. It is alleged that the Applicant facilitated said Indian national (co-accused) to enter into Pakistan from Balochistan and hence, the offence under Section 13-A of the Foreigners Act.

4. Heard learned counsel for the Applicant, learned Addl. P.G. and perused the record.

5. The version of the Applicant is that he was picked up by law enforcement agencies and kept in lawful detention and later on he was shown as arrested in the subject FIR. In support of that, learned counsel for the Applicant has drawn attention to proceedings in C.P. No. D-1605 of 2023, which was a missing person petition filed for the recovery of the Applicant in February, 2023.

6. Given the proceedings in C.P. No. D-1605 of 2023, the version of the Applicant cannot be ruled out at this stage. In any case, the offence alleged against the Applicant is under Section 13-A of the Foreigners Act, 1946 for which punishment of imprisonment does not exceed three years, and consequently the same does not attract the restriction on bail imposed by Section 14-A of the Foreigners Act.

7. For the foregoing reasons, the case against the Applicant is one of further inquiry falling within the ambit of subsection (2) of section 497 Cr.P.C. Therefore, the Applicant Zahoor Ahmed is granted bail in FIR No. 224/2023 subject to furnishing solvent surety in the sum of **Rs. 100,000/- [Rupees One Hundred Thousand only]** alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that the observations above are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

*PA/SADAM