

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Criminal Bail Application No.488 of 2024

Applicant : Asif s/o Abdul Sattar Memon, through Mr. Masood Rasool Babar Memon, advocate

Respondent : The State, through Ms. Rameshan Oad, A.P.G.

Date of hearing : 14.06.2024

Date of order : 14.06.2024

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Asif s/o Abdul Sattar Memon seeks post-arrest bail in Crime No.172/2024, registered at P.S. Badin under Section 23(1)(a), Sindh Arms Act, 2013 (**the Act**). His earlier application for the same relief being Criminal Bail Application No. 598 of 2024 was dismissed by the learned 2nd Additional Sessions Judge Badin, vide order dated 08.05.2024.

2. As per F.I.R., on 16.04.2024 at 1600 hrs., the applicant who was on police remand in Crime No. 165 of 2024 of P.S. Badin, registered under sections 365, 34, P.P.C., voluntarily led the police party headed by ASI Allah Bux Lashari to a vacant plot having a compound wall and iron gate, near his house, situated in Abid Town, Deh Sonbher, Taluka Badin and took out from there a black color shopper containing one unlicensed black color 9-MM pistol, without number, along with magazine, loaded with five live bullets. On its one side of barrel words "MADE AS TURKEY IMPORTED BY STOEGER INDUSTRIES USA" and on its other side "STOEGER COLIDAR RETRACT SLIDE TO SEE IF LOADED FIRES WITHOUT MAGAZINE" were engraved, for that the applicant was booked in the aforesaid F.I.R.

3. After hearing the learned counsel for the applicant as well as A.P.G. and perusing the material available on record, it appears that the applicant is

confined in judicial custody for last more than two months and the prosecution has already submitted the challan against him; hence, his custody is no more required for investigation purpose. Under Section 23 (1) (a) of the Act, the punishment for acquiring possessing, carrying and controlling any firearm or ammunition in contravention of section 3 of the Act may extend to fourteen years. The discretion is; however, left open with the trial Court by the legislature either to award maximum punishment to the accused or to award lesser punishment keeping in view the surrounding circumstances commensurate with the nature of the case.

4. As per FSL report, the recovered pistol was received in his office of the Incharge Forensic Science Laboratory, Forensic Division, Hyderabad on 26.04.2024, after ten days of alleged recovery. No explanation is available on record for sending the pistol with such a huge delay. As per FSL report, the pistol was having rubbed number while, as per F.I.R., it was without number. The FSL report does not reflect mentioning of alleged descriptions on its barrel, which is a lapse on the part of the prosecution creating reasonable doubt about recovery of alleged pistol from the control of applicant. Accumulating effects of all thecae points render the case against the applicant as one of further inquiry.

5. Accordingly, the instant application is allowed and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. Bond in the like amount to the satisfaction of the Additional Registrar of this Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case the applicant misuses the concession of

bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

7. Above are the reasons of my short order dated 14.06.2024.

JUDGE