

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD**

Criminal Bail Application S-666 of 2024

*Muhammad Umar*

vs.

*The State*

For the Applicant / Accused : Mr. Irfan Khaskheli, Advocate  
For the Prosecution / State : Mr. Siraj Ahmed Bijarani, APG  
Date of hearing : 02.07.2024  
Date of announcement : 02.07.2024

**ORDER**

**Agha Faisal, J.** The applicant seeks post-arrest bail, in respect of F.I.R. 82 of 2024, registered on 18.05.2024 before P.S. Market, Hyderabad, pertaining to offence/s under Section/s 324, 114, 337-A(i), 337-F(i), 337-H(ii), 201, 504, 147, 148, 149 P.P.C.

2. Learned counsel submits that the earlier plea for bail by the applicant was rejected by the Model Criminal Trial Court/1<sup>st</sup> Additional Sessions Judge, Hyderabad, in Cr. Bail Application 1371 of 2024, hence, the present proceedings.

3. After considering the submissions of the learned counsel and sifting<sup>1</sup> through the material placed before the court, for and against the applicant, reproduction whereof is eschewed herein<sup>2</sup>, it is observed as follows:

- a. The allegation essentially levelled against the applicant was that he was present at the venue, hence, connected with the offence.
- b. Learned counsel for the applicant pleaded entitlement to the concession of bail on the premise that the offence alleged is non-prohibitory in nature, in so far as the bail is concerned; the applicant himself was the complainant in the relevant FIR, however, he has subsequently been charged and arrested for reasons unjustifiable per the record. Per learned counsel, the applicant is an aged person devoid of any previous criminal record.

The learned A.P.G did not controvert the submissions, as narrated above.

- c. The alleged offence admittedly does not fall within the prohibitory clause and it is settled law in such matters the grant of bail is the

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<sup>1</sup> *Shoaib Mahmood Butt vs. Iftikhar Ul Haq & Others* reported as 1996 SCMR 1845.

<sup>2</sup> *Chairman NAB vs. Mian Muhammad Nawaz Sharif & Others* reported as PLD 2019 Supreme Court 445; *Muhammad Shakeel vs. The State & Others* reported as PLD 2014 Supreme Court 458.

rule<sup>3</sup> and its refusal an exception<sup>4</sup>. The Supreme Court has illumined<sup>5</sup> that in such cases Courts may consider favorably the granting of bail and decline to do so only in exceptional cases. Per the Prosecution, no exception is attracted in the present matter.

- d. Upon tentative<sup>6</sup> assessment of the material<sup>7</sup> collected by the prosecution, for and against the applicant, it is manifest that the case, pertaining to the involvement of the applicant / accused in commission of the alleged offence/s, merits further enquiry<sup>8</sup>, hence, demonstrably qualifying the present matter within the remit of Section 497(2) Cr.P.C. The Supreme Court has maintained that in matters requiring further enquiry, grant of bail is the rule rather than the exception<sup>9</sup>.
- e. In addition to the foregoing, the material placed before the Court does not indicate any criminal record of the applicant, in cases of an identical nature or otherwise; no argument has been articulated requiring the applicant's presence for further investigation at this stage<sup>10</sup> or denoting him as a flight risk; no apprehension has been expressed with regard to tampering of evidence by the applicant or repeating the offence/s, if enlarged on bail<sup>11</sup>; hence, no cause is apparent presently warranting the continued incarceration of the applicant *pendente lite*.

4. Therefore, it is the assessment of this Court that the learned counsel for the applicant has made out a fit case for grant of post arrest bail, hence, the applicant is hereby admitted to bail, subject to furnishing solvent surety in the sum of Rs.30,000/- (Rupees Thirty Thousand only) and a personal recognizance bond, in the like amount, to the satisfaction of the learned trial Court.

5. It is considered pertinent to record that the observations herein are of tentative nature and shall not influence and / or prejudice the case of either party at trial.

JUDGE

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<sup>3</sup> *Muhammad Tanveer vs. The State & Another* reported as PLD 2017 SC 733.

<sup>4</sup> *Tariq Bashir & Others vs. The State* reported as PLD 1995 Supreme Court 34.

<sup>5</sup> *Zafar Iqbal vs. Muhammad Anwar & Others* reported as 2009 SCMR 1488.

<sup>6</sup> *Shahzaman vs. The State* reported as PLD 1994 Supreme Court 65.

<sup>7</sup> *Asif Ayub vs. The State* reported as 2010 SCMR 1735.

<sup>8</sup> *Awal Khan & Others vs. The State* reported as 2017 SCMR 538.

<sup>9</sup> *Muhammad Shafi vs. The State* reported as 2016 SCMR 1593; *Nisar Ahmed vs. The State* reported as 2014 SCMR 27.

<sup>10</sup> *Riaz Jafar Natiq vs. Muhammad Nadeem Dar & Others* reported as 2011 SCMR 1708.

<sup>11</sup> *Subhan Khan vs. The State* reported as 2002 SCMR 1797.