

THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Bail Application No. 51 of 2024

[Ehsanullah & another v. the State]

Applicants : Ehsanullah son of Abdul Hafeez and Abdul Basit son of Alam Khan through M/s. Muhammad Daud Narejo and Muhammad Yousuf Narejo, Advocates.

Respondent : The State, through Mr. Chaudhry Saeed-uz-Zaman, Special Prosecutor, Ms. Sara Malkani, Assistant Attorney General for Pakistan along with I.O. Yousuf.

Date of hearing : 29-07-2024

Date of decision : 29-07-2024

*FIR No.4519/2024 dated 17.04.2024
U/s: 2(s) and 16 of the Customs Act, 1969
Punishable under clauses (8) & (89) of
Section 156 of Section 157 of the Act ibid
P.S. Pakistan Coast Guard Gharo.*

ORDER

Adnan Iqbal Chaudhry J. - The Applicants/Accused seek post-arrest bail in the aforesaid crime after the same was declined by the Special Judge (Customs, Taxation & Anti-Smuggling), Karachi by order dated 06.05.2024.

2. The Applicants were arrested by the Pakistan Coast Guard after a raid under Section 163 of the Customs Act, 1969 conducted at a house to allegedly recovered huge quantity of foreign-origin betel nuts, *katha*, various types of *patti* and packing material. The Applicants were allegedly occupants of that house and were thus booked for smuggling foreign-origin goods.

3. Heard learned counsel and perused the record.

4. Apparently, the Applicants were not arrested whilst in the act of smuggling said goods, but were arrested from the house where said goods were stored. That place is vaguely mentioned as "*General*

Area Chuch Jahan". The notice under Section 163 of the Customs Act also describes the premises simply as "*suspected house*".

5. Though it is alleged that the seized goods were of foreign origin and were smuggled, nowhere has the country of origin been specified. There are also no photographs on the record to show the packing in which the goods were seized so as to assert that those were of foreign origin. Similar goods are manufactured in Pakistan and may well be the case. Therefore, there is force in the submission of the Applicants that the goods seized were not goods smuggled and thus a case of further inquiry falling within the ambit of sub-section (2) of Section 497 Cr.P.C.

6. Since the value assigned to the goods in the recovery memo is Rs.24,77,205/-, the offence for which the Applicants are held is one punishable under clause (8)(i)(a) of Section 156(1) of the Customs Act for which the maximum punishment prescribed does not exceed two years imprisonment. Therefore, the offence alleged also does not fall within the prohibitory clause of section 497 CrPC.

7. In view of the foregoing, the Applicants/Accused are granted bail subject to furnishing a solvent surety in the sum of Rs.100,000/- [Rupees One Hundred Thousand Only] each alongwith P.R. Bond in the like amount to the satisfaction of the trial Court.

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

JUDGE

Karachi
Dated: 29-07-2022

*PA/SADAM