

**HIGH COURT OF SINDH, CIRCUIT COURT
AT HYDERABAD**

Cr. Bail Application No.D-108 of 2023

Cr. Bail Application No.D-109 of 2023

[Dilbar Ali versus The State]

Date

Order with signature of Judge

Before:-

Justice Mrs. Kausar Sultana Hussain
Mr. Justice Khadim Hussain Soomro

Applicant : Through Mian Taj Muhammad Keerio advocate

The State : Through Mr. Nazar Muhammad Memon,
Additional Prosecutor General Sindh

Date of hearing: 21.02.2024

Date of decision: 21.02.2024

ORDER

KAUSAR SULTANA HUSSAIN J.- Applicant Dilbar Ali seeks post arrest bail in Crime No.16 of 2023 punishable under Section 11-F(6) of Anti-Terrorism Act 1997 as well as in Crime No.17 of 2023 punishable under Section 23(1)(a) of Sindh Arms Act 2013, both registered at P.S C.T.D Hyderabad. Earlier applicant had applied for post-arrest before the learned trial Court; however, his same plea was declined vide orders both dated 15.11.2023. Since both the captioned bail applications are outcome of same incident, hence are being decided by this single Order.

2. Facts of the case find sufficient elaborate in memo of bail applications as well as impugned Orders as such there is no need to reproduce the same here for the sake of brevity. However the allegation against the applicant is that on 22.09.2022 he was arrested by the SHO of P.S C.T.D SIP Asif Hayat near G.A Shah protective boundary wall (bund), when he was allegedly collecting funds for banned organization Sindh Revolutionary Army and from his search one .30 bore pistol was recovered alongwith some cash amount of Rs.15,500/-.

3. We have heard the learned counsel for the applicant as well as learned Additional P.G and have also perused the material available on record.

4. Section 11-F(6) of Anti-Terrorism Act carries punishment upto five years. So far as Section 23(1)(a) of Sindh Arms Act 2013 is concerned, though offence

committed under said section is punishable upto fourteen years, however, it is well settled law that at bail stage lesser punishment is to be considered.

5. In addition to above though, as per FIR, the complainant had prior information about the presence of applicant at the place of incident, yet he had not associated any private person to witness the incident. Further as per FIR one .30 bore pistol is allegedly recovered from the possession of applicant, however there is no allegation against him that he had made any aerial or straight firing upon the police party. It also appears that despite the allegation of applicant being member of banned organization there is no previous criminal record against him at this stage. It is noted that time of alleged incident is 2200 hours (night time) and on one hand the complainant had alleged that applicant was collecting funds for banned organization whereas on the other hand he alleged that no one from the general public was present there to witness the incident, even in FIR the complainant had not mentioned the name of a single person from whom allegedly the applicant was collecting funds. It is also noted that present incident is alleged to have occurred on 22.09.2023 on Jamshor-Hyderabad road, however, uncle of the applicant had filed a constitutional petition bearing No.D-4362 of 2023 on 04.09.2023 i.e prior to the alleged incident before the principal seat of this Court at Karachi whereby he alleged that his nephews i.e present applicant and another one Dhani Bux were kidnapped by the officials of law enforcement agencies on 13.08.2023 from Mirpurkhas-Sanghar road.

6. The above discussion led us to hold that applicant has successfully made out his case for further inquiry. Accordingly both the captioned bail applications are allowed and in result whereof applicant is admitted to post-arrest bail in both the above crimes, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) in each case and P.R Bond in the like amount to the satisfaction of learned trial Court. It is, however, clarified that trial Court is competent to take action against the applicant in accordance with law, in case he misuses the concession of this bail at any stage of trial, without making any reference to this Court.

7. Needless to mention here that observations made hereinabove are tentative in nature and will not prejudice the case of either party at trial.

8. Captioned bail applications stand disposed of accordingly.

JUDGE

JUDGE