

# THE HIGH COURT OF SINDH KARACHI

## Spl. Cr. Bail Application No. 14 of 2024

For hearing of Bail Application.

Applicants/ Accused : Abdul Wahid son of Muhammad Yousuf, Muhammad Hanif son of Shareef and Kamran Akbar son of Muhammad Akbar through M/s. Jam Shahid Iqbal & Muhammad Asghar Joiya, Advocates.

The State : Through Mr. Ashiq Ali Anwar Rana, Special Prosecutor Customs alongwith I.O. namely; Muhammad Sagar, who is present in Court.

Date of hearing : 12-03-2024

Date of order : 12-03-2024

*FIR No. ASO -439/2023-HQ  
u/s: 2(s), 16, 156(2) & 157(2) of the Customs Act, 1969  
punishable under clauses (89) & (90) of section 156(1) ibid  
P.S. Collectorate of Customs Enforcement, Karachi.*

### ORDER

**Adnan Iqbal Chaudhry J.** - The Applicants/accused persons namely Abdul Wahid, Muhammad Hanif and Kamran Akbar pray for post-arrest bail in the aforesaid crime after their application has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling) Karachi vide order dated 18-12-2023.

2. The FIR was lodged on 28-10-2023 when a passenger bus coming to Karachi from Balochistan was searched at Moachko check-point to recover 14.8 kg narcotic substance and 440 sachets containing 2200 cartridges of 'Boostin Plus Injection' of foreign origin, all of which was concealed in a cavity engineered for the purpose within the roof of the bus. Abdul Wahid was arrested as the driver of the bus, and Muhammad Hanif and Kamran Akbar, who were bus cleaners, as accomplices.

3. Heard the counsel for the Applicants and the Special Prosecutor for Customs.

4. This bail application of course is confined to the offence alleged under the Customs Act, 1969 i.e. the smuggling of Boostin Plus Injections. Apparently, Boostin Injections are administered to cows/buffalos for enhancing their capacity to produce milk, and due to its hazardous effect on the quality of milk so produced, the Supreme Court of Pakistan had placed a ban upon the import, manufacturing and sale of Boostin injections *vide* order dated 06-01-2018 passed in C.P. No. 2374-L of 2016. However, despite that order, Boostin Injections are not included in Appendix-A of the Import Policy Order, which is the negative list of banned items.

5. As to the allegation that the Boostin Injections seized were smuggled goods, the investigation reports are vague. Though the final challan concludes that the injections were smuggled from Iran, the seizure report merely stated 'foreign origin'. The reports do not highlight the packing material of the injections which may indicate their place of origin. The injections may well be local.

6. The injections in questions were secreted in a cavity within the roof of the bus which was carrying a number of passengers. The accused Abdul Wahid was not the owner or hirer of the bus, but its driver. Whether he was the one who had so concealed the injections or had active knowledge that those injections were there, is a question of fact yet to be determined. The investigation thus far relies on data collected from Abdul Wahid's cell phone and concludes that he was in touch over the phone with persons in Gwadar who are suspected to be distributors of narcotics and smuggled goods. But again, that has yet to be proved. In fact, on a query of the Court the I.O. of the case acknowledges that he did not venture to Gwadar to investigate the alleged offence.

7. The other accused persons namely Muhammad Hanif and Kamran Akbar claim to be cleaners of the bus engaged for the journey. The challan does not discuss the evidence against them that could show that they had knowledge that smuggled goods were being transported in a secret cavity in the roof of the bus.

8. The case against all three Applicants is one of further inquiry falling within the ambit of sub-section (2) of section 497 Cr.P.C. Final challan has been filed and custody of the Applicants is no longer required for investigation.

9. Abdul Wahid is granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 300,000/- (Rupees Three Hundred Thousand) alongwith P.R. Bond in like amount to the satisfaction of the trial court. Muhammad Hanif and Kamran Akbar are granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand) each 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**

*SHABAN\**