

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No. S-999 of 2024

Applicants : (1) Abdul Latif s/o Lal Muhammad
(2) Abdul Muhammad s/o Sher Muhammad,
through Mr. Shakir Nawaz Shar, advocate

Respondent : The State, through Mr. Shahryar Shar,
Special Prosecutor, A.N.F.

Date of hearing : 30.09.2024
Date of order : 30.09.2024

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicants/accused named-above seek post-arrest bail in Crime No. 22 of 2024, registered at P.S. A.N.F., Jamshoro under sections 6, 9-(i)3(e), 14, 15 of the Control of Narcotic Substances Act, 1997 ("**the Act**"). Their earlier application for the same relief bearing No. 753/2024 was dismissed by the Special Judge Control of Narcotic Substances/Sessions Judge, Jamshoro, vide order dated 29.08.2024.

2. As per F.I.R., on 28.05.2024 at 0005 hrs. S.I Muneer Ahmed of A.N.F. (*Complainant*) upon spy information reached Super Highway near Jamshoro Toll Plaza along with subordinate staff where he got stopped (1) **Toyota Helix** Pickup double-cabin, black color, bearing registration No. KR-3838, being driven by applicant Abdul Muhammad and applicant Abdul Latif was sitting on front seat, and (2) **Toyota Surf**, white color, bearing registration No. LEC-15-5534 being driven by co-accused Muhammad Aslam and co-accused Malik Essa Khan was sitting on front seat. The applicants disclosed that they were escorting **Toyota Surf**. On search, the A.N.F. officials recovered from dashboard of **Toyota Helix** the sale deed of **Toyota Surf**. Applicant Abdul Latif disclosed that he was the owner of both the said

vehicles. From the search of **Toyota Surf**, A.N.F. officials secured one 30-bore rifle type weapon with three magazines containing 18 live bullets and 235 packets of charas each weighing 1200 grams (*total 282 Kgs.*) from eight white colored nylon sacks, out of them, the complainant separated 10 grams charas from each packet marked as S-1 to S-235 for chemical examination. The applicants and co-accused were arrested under *mashirnama*, thereafter, they were brought at P.S. A.N.F., Jamshoro, where aforesaid F.I.R. was registered against them.

3. Learned counsel for the applicants contends that the applicants are innocent and have falsely been implicated by the A.N.F with mala fide intention and ulterior motives due to political rivalry; that no contraband article has been recovered from the possession of the applicants and the alleged recovered charas has been foisted upon them; that applicant Abdul Latif was arrested from his house situated in Karachi along with his gunman Abdul Muhammad; that the prosecution has failed to produce any material to establish the connection of the applicants with alleged offence; hence, the applicants are entitled for the grant of bail.

4. On the other hand, learned Special Prosecutor, A.N.F. resists grant of bail to the applicant on the ground that they were arrested on being found in possession of huge quantity of charas for which life imprisonment has been provided under the Act and sufficient evidence is available with the prosecution to connect them with the commission of alleged offence.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. The applicants are confined in judicial custody since day of their arrest and A.N.F. has submitted the challan, therefore, their custody is no more required for further investigation. As per prosecution case, the applicants were arrested while they were travelling in **Toyota Helix** Pickup and from search thereof no contraband article has been recovered. The alleged arms and charas has been shown recovered from **Toyota Surf** which was being driven by co-accused Muhammad Aslam and co-accused Malik Essa Khan was sitting on front seat. It is case of the prosecution that applicant Abdul Latif is the owner of **Toyota Surf**. In this regards, Special Prosecutor, A.N.F. has brought on record two Delivery Letters issued by "Chand Motors", Multan Road, Ali Pur Tehsil, District Muzafar Gard. One is dated 03.09.2023 bearing Serial No. **356**, which shown that on 03.09.2023 one Shakil Ahmed s/o Ghulam Nabi purchased **Toyota Surf** from one Zaheer Ahmed. The second Delivery Letters is dated 04.09.2023 (*of very next day*) which surprisingly bears Serial No. **338**, which shows that on 04.09.2023, applicant Abdul Latif purchased **Toyota Surf** from said Shakil Ahmed. The so-called Delivery Letter on the name of applicant Abdul Latif is subsequent but bears serial No. **338**, while earlier Delivery Letter bears Serial No.**356**, which is later in Serial No., which creates doubts in prosecution case regarding ownership of the said vehicle in favour of applicant Abdul Latif, benefit of which could be extended to the applicants at the bail stage. Besides, said documents/ delivery letter, there is no document with prosecution showing any connection of **Toyota Surf** with the Abdul Latif. It is also an admitted position that the I.O. has neither recorded the statement of the owner of "Chand Motors" in this regard nor he has been cited as witness in the Challan. Admittedly, the applicants have no previous record of indulging in any such crime.

7. Accordingly, the instant application is allowed, and in result thereof the applicants are admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by them solvent surety in the sum of Rs.200,000/- (*Rupees Two Hundred Thousand only*) each and P.R. Bond in the like amount to the satisfaction of the trial Court.

8. 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 applicants on merits. In case the applicant(s), in any manner, tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

JUDGE

Hafiz Fahad