

# IN THE HIGH COURT OF SINDH, KARACHI

## **Criminal Bail Application No. 2059 of 2024**

<i>Date</i>	<i>Order with signature of Judge</i>
<b>Applicant</b> Umar Shahid Aziz, son of Muhammad Shahid Aziz Khan	: through M/s. Raja Rizwan Abbasi & Khawaja Naveed Ahmed, Advocates
<b>The State</b>	: Through Mr. Muhammad Ahmed, Assistant Attorney General for Pakistan along with I.O / Inspector Muhammad Saleem of FIA, SBC, Karachi.
<b>Date of hearing</b>	: 30.09.2024
<b>Date of order</b>	: 30.09.2024

### **ORDER**

**Muhammad Saleem Jessar, J:-** Through instant bail application, applicant Umar Shahid Aziz son of Muhammad Shahid Aziz Khan seeks his release on post arrest bail in Crime No.23 of 2024 registered with P.S FIA, SBC, Karachi for the offence punishable to Section 4/23 of Foreign Exchange Regulation Act, 1947 (amended in 2020) read with Section 109 PPC. The case has been challaned which is now pending for trial before the Court of 4<sup>th</sup> Addl. Sessions Judge, Malir Karachi vide Special Case No. Nil of 2024 (re-the State Versus Umar Shahid Aziz). The applicant attempted twice by maintaining bail application before the Court below, which were declined by way of orders dated 30.08.2024 and 07.09.2024, respectively. Hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant mainly argued that the offence with which accused stands charged, carries maximum punishment of five years; hence, does not exceed limits of prohibitory clause of section 497 Cr.P.C; besides, he is no more required by the police for the purpose of investigation or interrogation. As far as, alleged recovery of foreign currency is concerned, both learned counsel contended that it is in custody of the prosecution itself which cannot be disturbed or tampered, therefore, question of his absconding or tampering with prosecution evidence, does not arise. They, therefore, prayed for grant of bail.

4. On the other hand, learned Assistant Attorney General for Pakistan assisted by I.O of the case, vehemently opposed the bail application on the ground that huge quantity of foreign currency has been shown to have been recovered from the accused; besides, he has miserably failed to give its details as well as source of owing such huge amount. He; however, could not controvert the fact that offence with which applicant stands charged, carries maximum punishment of five years.

5. **Heard and perused record.** Admittedly, the accused is nominated in the FIR; besides, documentary evidence has been shown to have been collected by the Investigating Agency against the accused and after recording evidence of the prosecution witnesses, if the prosecution may succeed to prove its charge, the accused would be convicted for the offence, he stood charged; hence, accusation against him is yet to be determined by the trial Court after recording evidence of the prosecution witnesses. Since the evidence as well as material collected by the FIA police against accused, is in shape of documents, which cannot be tampered with; besides, the prosecution has to establish its charge against him through evidence which is yet to be adduced by it. Moreover, the offence with which he has been charge sheeted, carries maximum punishment of five years which does not exceed limits of prohibitory clause of section 497 Cr.P.C. In such like cases, bail becomes right of the accused and refusal will be an exception.

6. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, case against applicant requires

further inquiry within meaning of subsection (2) to section 497 Cr.P.C. Consequently, by a short order dated 30.09.2024, instant bail application was allowed; whereby, applicant **Umar Shahid Aziz son of Muhammad Shahid Aziz Khan** was directed to be released on bail subject to furnishing his solvent surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousands Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

7. It may be pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, if the applicant is found misusing the concession of bail, learned trial Court would be competent to proceed against him as well his surety, according to law.

8. These are the reasons of said short order.

**JUDGE**

Zulfiqar/P.A