

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln No.226 of 2022.  
Cr. Bail Appln No.866 of 2022.  
Cr. Bail Appln No.704 of 2022.

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Date:           Order with signature(s) of the Judge(s)  
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For Hearing of Main Case.

18<sup>th</sup> October, 2022.

Ms. Bushra Zia advocate for the applicant in Cr. Bail Application No. 226/2022.

Mr. Umar Farooq advocate for the applicant in Cr. Bail Application No. 866/2022.

Mr. Muhammad Hanif Samma advocate for the applicant in Cr. Bail Application No. 704/2022.

Mr. Khalid Rajper, Special Prosecutor Custom a/w Muhammad Qasim Khokhar, Additional Collector Law/Investigation Officer and Tausif Ahmed, Appraising Officer.

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**Salahuddin Panhwar, J.-** After having declined post-arrest bail, applicants 1] Hyder Shah son of Ahmed Shah, 2] Muhammad Hamza son of Saeed Ahmad and 3] Muhammad Haris son of Muhammad Shafi have approached this Court for the same relief.

Heard learned counsel for respective parties.

Applicants have been arraigned in a case that they crossed vessel through green channel containing 2346 Kgs Ketamine, hence, they have committed offence under Narcotics as well as Customs Act. Learned counsel for the applicant in Cr. Bail Application No. 866/2022 has taken specific plea that ketamine was not scheduled offence under Narcotics Act when this vessel crossed border limit of this country. Though that vessel was examined by all concerned departments including same was scanned with advance technology.

Here moot questions is that **ketamine was not scheduled offence when same sailed from the Pakistan territory** though same was subsequently, added at that time vessel reached within the border of

US accordingly, whether applicants have committed offence of narcotics or they are to be tried under customs law is yet to be determined by the trial court.

Beside on 27.09.2022 customs authorities were given liberty as required under the law to collect evidence from all concerned countries. According to Special Prosecutor Custom by that order authorities are conducting investigation. At this stage it is pertinent to mention that bail cannot be withheld as conviction; yet investigation authorities are trying to establish a case against the applicants, hence, this is a case of further inquiry. Applicants 1] Hyder Shah son of Ahmed Shah, 2] Muhammad Hamza son of Saeed Ahmad and 3] Muhammad Haris son of Muhammad Shafi are admitted to post arrest bail subject to furnishing solvent surety in the sum of Rs.5,00,000/- each [rupees five lac only] with PR Bond in the like amount to the satisfaction of trial court. Besides, authorities would be competent to conduct investigation in view of order as referred to above and would be at liberty to submit supplementary challan before the competent court. Needless to mention that in these type of cases investigation may take time, therefore, sufficient time shall be provided to the authorities to conduct investigation. Besides, it is pertinent to mention that if sufficient material is placed before the trial court while submitting supplementary challan, learned trial court would be at liberty to cancel the bail, if such application is filed however, with notice and right of hearing to the applicants.

M.Zeeshan

JUDGE