

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

Cr.Bail.Appl.No.S- 985 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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04.11.2013.

Mr. Nisar Ahmed Durani, Advocate for applicant.
Syed Meeral Shah, D.P.G. for the State.

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NAIMATULLAH PHULPOTO, J:- Applicant / accused Zubair Ahmed s/o Abdul Aziz Shaikh seeks bail in Crime No.180/2013 registered against him at Police Station Market Hyderabad U/s 23 (1) (a) Sindh Arms Act, 2013.

2. Brief facts of the prosecution case are that on 08.10.2013 SIP Hadi Bux Shah of Police Station Market Hyderabad left Police Station alongwith his subordinate staff in the private vehicle for patrolling duty. While patrolling at various places when the police party reached at Kali Mori Chowk, Government College, Hyderabad where present accused was found in the suspicious manner. He was surrounded and caught hold. SHO conducted personal search of accused in presence of mashirs PCs Muneer Ahmed and Khadim Hussain and recovered one pistol of 30 bore without number alongwith magazine for which applicant / accused had no license. Thereafter, he was brought to the police station where FIR under above referred section was lodged against him.

3. After usual investigation challan was submitted against the applicant / accused U/s 23 (1) (a) Sindh Arms Act, 2013.

4. Bail application was moved on behalf of accused, same was rejected by learned Vth Additional Sessions Judge, Hyderabad by order dated 14.10.2013.

5. Mr. Nisar Ahmed Durani, learned advocate for applicant / accused argued that pistol allegedly recovered has not been sent to the Ballistic expert for report and the PWs are police officials; there is no question of tampering with evidence; applicant / accused is no more required for investigation. Lastly it is submitted that Section 24 of the Sindh Arm Act, 2013 provided punishment of unlicensed arm which may extend to 10 years and the offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

6. Syed Meeral Shah, learned D.P.G. opposed the application on the ground that unlicensed arm has been recovered from the possession of accused. He further argued that The Sindh Arms Act, 2013 has been introduced to curb, persons found in possession of illicit arms.

7. I am inclined to grant bail to the applicant/accused for the reasons that all the prosecution witnesses are police officials; case has been challaned; applicant/accused is no more required for investigation; there is no apprehension of tampering with the prosecution evidence; pistol recovered from the possession of the applicant/accused has not been sent to the Ballistic Expert for report. In Section 24 of The Sindh Arms Act, 2013, it is mentioned that punishment of unlicensed arm may extend to ten years and with fine. The Court while hearing bail application is not to keep in view the maximum sentence provided by statute but the one which is likely to be entailed in the facts and circumstances of the case. In the instant case, 30-bore unlicensed pistol has been recovered from possession of accused. It has been argued that police had ill-will with accused to foist pistol upon him. Therefore, keeping in view facts and circumstances of the case, prima facie, case against applicant/accused requires further enquiry as contemplated under subsection (2) of Section 497 Cr.P.C. Applicant/accused is admitted to bail subject to his

furnishing solvent surety in the sum of Rs.50,000/- (Fifty thousand) and P.R. bond in the like amount to the satisfaction of trial Court.

8. Needless, to mention here that the observations made hereinabove are tentative in nature and would not influence trial Court while deciding the case on merits.

JUDGE

Tufail