

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.860 of 2024

Applicant : Mohammad Imran S/o Muhammad Ibrahim
through Mr. Mushtaq Ahmed, Advocate

Respondent : The State
through Mr. Mohsin Ali Khan, Special
Prosecutor ANF

Date of hearing : 17.03.2025

Date of order : 17.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.22/2023 for the offence under Section 9(2) 9, 15 (Amended) CNS Act, 2022 at PS ANF, after his bail plea has been declined by the learned Judge, Special Court-II (CNS), Karachi vide order dated 14.12.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that at the time of registration of the instant FIR, the applicant was in jail but subsequently on the statement of one Amir, he was booked in this case, otherwise he has not committed any offence; that nothing was recovered from the applicant nor any evidence has been brought on record to believe that the applicant is involved in this case; that the FIR was registered on 04.06.2023 since then no progress is made; that on last date of hearing report was called by this Court from the concerned trial Court wherein it has been written that charge was framed on 22.11.2023 and thereafter notices were repeated to the prosecution witnesses but ANF failed to produce their witnesses, as such, case could not be proceeded; that the applicant is in jail for about two years and no progress has been made before the trial, as such, he is entitled for concession of bail.

4. On the other hand, learned Special Prosecutor ANF submits that one witness was in attendance on last date of hearing but learned defence counsel was not present. When he was confronted that the instant FIR was registered in the year 2023 but he has not produced witnesses during one and half years, he replied that ANF registers cases in all over, as such, it is difficult for them to produce witnesses on each and every date of hearing. He lastly opposed for grant of bail.

5. Heard the parties and perused the material available on record.

6. From perusal of record, it reflects that the instant FIR was registered in the month of June, 2023 and charge was framed on 22.11.2023 since then no progress has been made. The applicant is languishing in jail for about two years only because of the delay being caused by the ANF. However, it is the prime duty of the prosecution agency that once the case is registered, they will try their level best to proceed with the matter within stipulated time period. But in the instant case, despite a lapse of about two years the case has not been proceeded further. The applicant is in jail for about two years. His further detention will not improve the case of prosecution. Reliance is place in an unreported case of the Hon'ble Supreme Court of Pakistan in the case of **Jahzeb Khan vs. The State through A.G. KPK and others** in Criminal Petition No.594/2020; wherein the Hon'ble Supreme Court has held that:

“4..... Petitioner’s continuous detention is not likely to improve upon investigative process, already concluded, thus, he cannot be held behind the bars as a strategy for punishment. A case for petitioner’s release on bail stands made out.”

7. Further, the claim of the applicant is that at the time of recovery of narcotics in the instant case, he was already in jail and on the basis of statement of one Amir, he has been implicated in this case, otherwise he is innocent. All these aspects of this case will be seen when evidence will be recorded. At bail stage, only tentative assessment is to be made and deeper appreciation is not permissible.

8. In view of the above, learned counsel for the applicant has made out a case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The applicant/accused named above is granted post-arrest bail subject to furnishing two solvent sureties in the sum of Rs.500,000/- **each** and P.R. bonds in the like amount to the satisfaction of learned trial Court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA