

# IN THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Bail Application 159 of 2024

*Mohsin*  
vs.  
*The State*

For the Applicant / Accused : Mr. Syed Muhammad Asif  
Advocate

For the Prosecution / State : Mr. Ghulam Asghar Pathan  
Advocate

Date of hearing : 24.03.2025

Date of announcement : 24.03.2025

## ORDER

**Agha Faisal, J.** The applicant seeks post-arrest bail, in respect of F.I.R. No.3 of 2024, registered on 20.05.2024, before Directorate of Intelligence and Investigation (Inland Revenue) Hyderabad, pertaining to offence/s under Section/s 2(9), 2(37), 3, 6, 7, 8, 11, 22, 23, 26, 73, 33(11), 33(13) & 37A Sales Tax Act.

2. Learned counsel submits that the earlier plea for bail by the applicant was rejected by the Court of the Special Judge (Customs, Taxation and Anti-Smuggling-I), Karachi in Case No. 101 of 2024, hence, the present proceedings.

3. After considering the submissions of the learned counsel and sifting<sup>1</sup> through the material placed before the court, for and against the applicant, reproduction whereof is eschewed herein<sup>2</sup>, it is observed as follows:

- a. The matter pertains to allegation of fake flying invoices of Sales Tax. Admittedly, the applicant is not named in the FIR and was implicated subsequently on statement of co-accused Fahad and on his pointation has been implicated. The investigation has been completed and the applicant has already been remanded to the judicial custody, therefore, the contention is that no case is made out for incarceration.
- b. Learned counsel for the applicant pleaded entitlement to the concession of bail on the premise that name of the applicant is not mentioned in the FIR and the only allegation there against is by an individual who has been discharged.

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<sup>1</sup> *Shoaib Mahmood Butt vs. Iftikhar Ul Haq & Others* reported as 1996 SCMR 1845.

<sup>2</sup> *Chairman NAB vs. Mian Muhammad Nawaz Sharif & Others* reported as PLD 2019 Supreme Court 445; *Muhammad Shakeel vs. The State & Others* reported as PLD 2014 Supreme Court 458.

The Prosecution asserted that the applicant was not eligible for the relief sought if there are others implicated as well and the release of the applicant will have an impact on the case.

- c. It is admitted that the investigation in respect of the applicant has already been concluded. The alleged offence admittedly does not fall within the prohibitory clause and it is settled law in such matters the grant of bail is the rule<sup>3</sup> and its refusal an exception<sup>4</sup>. The Supreme Court has illumined<sup>5</sup> that in such cases Courts may consider favorably the granting of bail and decline to do so only in exceptional cases. No exception has been demonstrated by the Prosecution in the present matter.
- d. Upon tentative<sup>6</sup> assessment of the material<sup>7</sup> collected by the prosecution, for and against the applicant, it is manifest that the case, pertaining to the involvement of the applicant / accused in commission of the alleged offence/s, merits further enquiry<sup>8</sup>, hence, demonstrably qualifying the present matter within the remit of Section 497(2) Cr.P.C. The Supreme Court has maintained that in matters requiring further enquiry, grant of bail is the rule rather than the exception<sup>9</sup>.
- e. In addition to the foregoing, the material placed before the Court does not indicate any criminal record of the applicant, in cases of an identical nature or otherwise; no argument has been articulated requiring the applicant's presence for further investigation at this stage<sup>10</sup> or denoting him as a flight risk; no apprehension has been expressed with regard to tampering of evidence by the applicant or repeating the offence/s, if enlarged on bail<sup>11</sup>; hence, no cause is apparent presently warranting the continued incarceration of the applicant *pendente lite*.

4. Therefore, it is the assessment of this Court that the learned counsel for the applicant has made out a fit case for grant of post arrest bail, hence, the applicant is hereby admitted to bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) and a personal recognizance bond, in the like amount, to the satisfaction of the learned trial Court.

5. It is considered pertinent to record that the observations herein are of tentative nature and shall not influence and / or prejudice the case of either party at trial.

JUDGE

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<sup>3</sup> *Muhammad Tanveer vs. The State & Another* reported as PLD 2017 SC 733.

<sup>4</sup> *Tariq Bashir & Others vs. The State* reported as PLD 1995 Supreme Court 34.

<sup>5</sup> *Zafar Iqbal vs. Muhammad Anwar & Others* reported as 2009 SCMR 1488.

<sup>6</sup> *Shahzaman vs. The State* reported as PLD 1994 Supreme Court 65.

<sup>7</sup> *Asif Ayub vs. The State* reported as 2010 SCMR 1735.

<sup>8</sup> *Awal Khan & Others vs. The State* reported as 2017 SCMR 538.

<sup>9</sup> *Muhammad Shafi vs. The State* reported as 2016 SCMR 1593; *Nisar Ahmed vs. The State* reported as 2014 SCMR 27.

<sup>10</sup> *Riaz Jafar Natiq vs. Muhammad Nadeem Dar & Others* reported as 2011 SCMR 1708.

<sup>11</sup> *Subhan Khan vs. The State* reported as 2002 SCMR 1797.