

THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Bail Application No. 65 of 2025

[Muhammad Javed v. The State]

Applicant : Muhammad Javed son of Muhammad Ibrahim through Mr. Muhammad Rashid, Advocate.

Respondent : The State, through Mr. Altaf Ahmed Sahar, Assistant Attorney General for Pakistan and Mr. Asad Ali Sodhar, Assistant Director / I.O. FIA, Karachi.

Date of hearing : 18-03-2025

Date of decision : 18-03-2025

*FIR No. 30 of 2024
u/s: 156(1)(8) of the Customs Act, 1969
read with Section 109 PPC
P.S. FIA, Corporate Crime Circle, Karachi*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant seeks post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling-I), Karachi by order dated 21.02.2025.

2. As per the FIR lodged on 03.12.2024, upon receiving spy information a team of the FIA departed to intercept a seller of Boostin Injections; that at a check-post at Bhayani Heights, Gulshan-e-Iqbal, the Applicant and one Irfan Ahmed were intercepted; that the polyethylene bag carried by the Applicant contained 250 ampules of Boostin Injections which are banned items and thus suspected to be smuggled. The Applicant was thus arrested and booked for the offence of smuggling Boostin Injections.

3. Heard learned counsel and perused the record.

4. Apparently, Boostin Plus Injections are administered to cows/buffalos for enhancing their capacity to produce milk, and due to its hazardous effect on the quality of milk so produced, the Supreme Court of Pakistan had placed a ban upon the import, manufacture and sale of such injections by order dated 06-01-2018 passed in C.P. No. 2374-L of 2016.

5. Learned counsel for the Applicant submits that said Boostin Injections were foisted on the Applicant by the FIA. He draws attention to statements of FIA officials recorded under section 161 Cr.P.C. to show that witnesses to the seizure memo did not name the Applicant, rather stated that said injections were seized “*from premises of Bhayani Heights*”; and that the witness of the search and arrest stated that only a driving license was recovered from the Applicant’s person.

6. Be that as it may, the fact of the matter is that despite the order of the Supreme Court, the Federal Government has not bothered to include Boostin Plus Injections in the list of smuggled goods notified under section 2(s) of the Customs Act *viz.* SRO No.556(I)/2005 dated 06-06-2005, nor in Appendix-A of the Import Policy Order which is the negative list of banned items. While such inaction of the Federal Government is deplorable, that aspect can best be examined in writ jurisdiction.

7. At present, since Boostin Plus Injections are not notified under section 2(s) of the Customs Act, the offence of smuggling, and consequently the punishment prescribed in clause 8 of section 156(1) of said Act do not seem to be attracted. Reliance can be placed on the cases of *Shabbir Ahmed Shah v. Pakistan* (1980 PCrLJ 349) and *Hiam Tabbara v. Director-General, Pakistan Coast Guards* (PLD 1980 Karachi 44).

8. In view of the foregoing, the Applicant, Muhammad Javed is granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 200,000/- [Rupees Two Hundred Thousand only] alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that the observations herein are tentative, and shall not be construed to prejudice the case of either side at trial.

JUDGE

Karachi
Dated: 18-03-2025

*PA/SADAM