

ORDER SHEET

**IN THE HIGH COURT OF SINDH, KARACHI.****Cr. Bail Appl No.447 of 2025**

(Niaz Ahmed vs. The State)

**07.04.2025**

Mr. Aamir Mansoob Qureshi, advocate a/w applicant  
M/s. Mohsin Iqbal and Sarfraz Ali Metlo, Special Prosecutor ANF a/w  
IO/Inspector Shahnaz, ANF.

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** Applicant (Niaz Ahmed) is seeking pre arrest bail in Crime No.12/2024, u/s 3/4 PEOH, 1979 of Police Station ANF Clifton, Karachi. He is present on ad-interim pre arrest bail granted to him vide order dated 20.02.2025 and today the matter is fixed for confirmation or otherwise.

2. As per FIR, on a tip off the Anti-Narcotics Force (ANF) team conducted a raid on KICT Port Karachi and de-sealed a suspicious container available there, from which it recovered 4368 bottles of imported wine, whisky/alcohol. When investigation was carried out, ANF found that exporter of the container was Dashmesh International Trading and the container was imported through Embassy of Cuba in Pakistan. Applicant was found to be the importer, freight forwarder, endorsing the relevant papers for exporting the container and getting it released from the customs department at the port. All the relevant documents including bills of loading were found in the name of United Shipping & Trading being run by the applicant. On the basis of such investigation and relevant documents, applicant was arrayed in the case as accused along with his son.

3. Learned counsel for the applicant submits that the Prohibition (Enforcement of Hadd) Ordinance, 1979 (**PEHO**) is not applicable in the present case as allegations of smuggling and importing the alleged container are leveled; that Anti-Narcotics Force (ANF) has no jurisdiction to register and investigate these cases, which is a prerogative of the Custom Department; that no specific role of applicant has been found out in the investigation, nor any is mentioned in the FIR; that the delivery is in the name of AGS with which applicant has no concern; that no contraband was recovered from exclusive possession of the applicant; that applicability of Sections 3 & 4 PEHO, 1979 is doubtful; that the applicant is a license shipping agent, clearing agent and handler of diplomatic cargo and he is not involved in the case; that this container was imported by Embassy of Cuba and it is the consignee of the cargo, that the Embassy has played a crucial role in facilitating the smuggling operation by misusing diplomatic privileges; that there is no evidence direct or

indirect against the applicant; that the role of S.K. Traders, the clearing agent responsible for processing the consignment, has been suspiciously overlooked by the prosecution; that it is S.K Traders, which is responsible for handling the alleged cargo. Learned defence counsel has read out section 2(s) under Section 16 of the Custom Act, 1969 to bring home his point.

4. In contrast, learned Special Prosecutor, ANF has read out section 5 of Anti-Narcotics Force Act to establish that ANF has the jurisdiction to register and investigate the likewise matters. IO of the case is present and submits that applicant is importer and by using the name of Cubban Embassy, the container was imported by him. In the investigation, Cubban Embassy disowned the contents found in the container and showed documents establishing that perishable items were imported by them.

5. I have heard the parties and perused material available on record. A perusal of FIR shows that name of the applicant is not mentioned. It is only in the investigation, the applicant and his son were traced out to have used the name of Cubban Embassy in importing the alleged container from which huge quantity of wine, whisky and alcohol was recovered. The fact that applicant and his son's role was ascertained only in the investigation would show that ANF had no ill will to falsely implicate them in the case. *Prima facie*, it appears that the outcome of investigation is based on scrutiny of relevant documents which on a tentative assessment confirm role of the applicant and his son in the case.

6. The challenge to the jurisdiction of ANF raised by learned counsel in his arguments has been adequately replied by learned Special Prosecutor ANF by referring to section 5 of ANF Act, which empowers the ANF to register and take up investigation even in the cases of smuggling, etc. Even otherwise, this point is not attracted for determining right of the applicant to bail. The quantum of punishment insofar as right of accused to pre-arrest bail is concerned is also immaterial and cannot be considered as a ground for granting bail to the accused. It appears that applicant by building various tiers has attempted to hide himself but the investigation has unearthed his role on scrutiny of the relevant papers. It was because of the hold imposed by the ANF, the release of container was stopped, otherwise as per statement of IO the container would have been released and its contents taken possession of by the applicant. It is also pointed out in the arguments that applicant is a habitual criminal and is already involved in one such case.

7. In view of the above facts and circumstances, I am of the view that applicant is not entitled to extra-ordinary concession of pre-arrest bail, which is

only meant to save the innocent person from highhandedness of the police or complainant implicating him in a false case. Accordingly, this application is dismissed. The ad-interim pre-arrest bail granted to the applicant on 20.02.2025 is hereby recalled.

8. Needless to mention that the observations made herein above are tentative in nature and would not prejudice case of either party at trial. The bail application is disposed of in the above terms.

**J U D G E**

Rafiq/P.A.