

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.690 of 2025

Applicant : Mitha Khan son of Muhammad Khan Sand
through Mr. Nasrullah Malik, Advocate

Respondent : The State
Mr. Malik Sadaqat Khan, Spl, Prosecutor
SSGC.

Date of hearing : 24.03.2025

Date of order : 26.03.2025

ORDER

KHALID HUSSAIN SHAHANI, J -- Through instant bail application, applicant Mitha Khan son of Muhammad Khan Sand seeks post arrest bail in Crime No. 08 of 2025 under Sections 14/15 & 24 (Theft Control and Recover Act, 2016 at PS SSGC Karachi. Previous bail of the applicant was declined by the court of Gas Utility Court at Karachi.

2. The pertinent facts are that on 01.02.2025, acting on a tip-off, complainant Rehan Mahmood, Deputy Manager at SSGC Karachi, along with the Superintendent and other technical staff, proceeded to Katchi Abadi Main Chowk near Albasit Real Estate, Chaman Iqbal Colony, Block-VI, Gulistan-e-Johar, Karachi, with excavation machinery. During excavation, a gas leakage was discovered, revealing a direct connection via a 63mm plastic pipe to an underground 2-inch iron gas transmission line. It was alleged that gas was being illegally siphoned and supplied to approximately 800-900 houses in Chaman Iqbal Colony. The illegal connection was disconnected, and two plastic pipes were seized. Consequently, a case was registered against Aziz Ullah, Ali Buksh, Mitha Khan Sand (the applicant), and Zulfiqar Khoso. It was further alleged that the named individuals had been collecting Rs. 35,000 per household as an advance and Rs. 2,000 per month thereafter.

3. The learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to political rivalry. He submitted that no individual was apprehended at the scene and the

recovery of two small pipes does not constitute an offence. Furthermore, no resident of the locality was examined during the investigation to confirm that the applicant was collecting payments for illegal gas supply. He argued that the applicant is a retired Lieutenant Commander from the Pakistan Navy, a highly educated and reputable individual, and would not be involved in such illegal activity. He further highlighted a one-day delay in the registration of the FIR without sufficient justification, which, according to him, undermines the prosecution's case. The learned counsel emphasized that the case does not fall within the prohibitory clause of Section 497(1) Cr.P.C., and the investigation has already culminated in a challan.

4. Conversely, the Special Prosecutor for SSGC argued that the applicant's name is explicitly mentioned in the FIR and that he has been involved in similar illegal activities in the past, with as many as 21 cases of like nature registered against him. He also submitted that no resident of the area was willing to come forward and testify against the applicant. The prosecutor relied on various case law precedents, including 2017 P.Cr.L.J Note 47, 2018 P.Cr.L.J 1547, 2015 SCMR 1716, 2019 SCMR 1457, 2121 SCMR 56, and PLD 2020 Sindh 451.

5. After hearing arguments and perusal of the record, it appears that although the applicant was alleged to be involved in tampering with the gas pipeline along with others, surprisingly no individual who allegedly benefited from the illegal gas supply has been presented during the investigation. The Investigation Officer, present in court, admitted upon specific questioning that beyond the version presented in the FIR, there was no supporting material to show the applicant's involvement in tampering or receiving payments. Additionally, no effort was made to verify the installation of the unauthorized pipeline or to establish that residents without meters were using illegal gas. These deficiencies indicate that the allegations remain uncorroborated.

6. While it is true that 21 cases have been registered against the applicant, it is equally notable that he has not been convicted in any of them. Mere registration of cases without production of cogent evidence is insufficient. The offence with which the applicant is charged carries a

sentence of up to seven years, and therefore does not fall under the prohibitory clause of Section 497(1) Cr.P.C. In such cases, the grant of bail is the rule, and its denial is the exception.

7. Under the circumstances, I am of the view that the applicant has made out a case for grant of bail. Accordingly, applicant was admitted to post arrest bail, subject to furnishing surety in the sum of Rs.1,00,000/- (Rupees One Lac) with P.R. bond in the like amount to the satisfaction of the learned trial Court.

8. The observations made herein are tentative in nature and shall not prejudice the trial court in deciding the matter on merits.

JUDGE

Zeeshan