

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Bail Appl No.2629 of 2024
(Osma Bin Niaz vs. The State)

17.12.2024

Mr. Uzair A.K Ghani, advocate for applicant
Barrister Mian Haad A.M. Paggawala, Special Prosecutor, ANF a/w
IO/Inspector Shahnaz, ANF.

ORDER

MUHAMMAD IQBAL KALHORO J: Applicant Osama Bin Niaz 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 12.11.2024 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. The applicant was found to be importer, freight forwarder, endorsing the relevant papers for exporting the container and getting it released from the customs department at the port. In the investigation, all the relevant documents including bills of loading were found in the name of United Shipping & Trading being run by the father of applicant and applicant. On the basis of such investigation and relevant documents applicant was arrayed in the case as accused along with his father.

3. Learned defence counsel submits that applicant is innocent, has been falsely implicated in this case. He was not present at the spot and his name is not mentioned in FIR. From the documents, it is not clear that applicant has any role to play in the case; there is no signature or writing of the applicant on any of the documents. Only the allegations of being importer have been leveled against him without any evidence.

4. On the other hand, learned Special Prosecutor, ANF has opposed bail. IO of the case is present and submits that applicant has been found involved being importer of the shipment in the investigation on scrutiny of relevant documents. He is also involved in FIR No.39/2024 in which 8600 bottles of wine, whisky and alcohol were recovered from a container in similar circumstances. The applicant and his father are habitual offenders. They know that any container, which is imported from Cuban Embassy is not subjected to

any checking at the port, hence, the applicant and his father exploit the situation in their favour and import huge quantity of foreign alcohol.

5. I have considered submissions of the parties and perused material available on record. It goes without saying that relief of pre-arrest bail is not for a person against whom *prima facie* evidence has been found in the investigation. The concession of pre-arrest bail is extra ordinary in nature and is granted when an accused is involved on the basis of ulterior motives or malafide intention on the part of complainant or police. The ANF has no enmity with the applicant or his father to arraign them in this case in the investigation, as it is evident from the facts in the FIR in which none of them has been arraigned as accused. It is only afterwards during the investigation, on scrutiny of all the documents, the role of the applicant has surfaced that he is importer and has imported the container from which huge quantity of wine, whisky and alcohol has been recovered. In presence of *prima facie* evidence, I do not find the applicant to be entitled to concession of pre-arrest. Accordingly, this application is dismissed. The ad-interim pre-arrest bail granted to the applicant on 12.11.2024 is hereby recalled.

6. 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.