

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

Cr. Bail application No.S- 597 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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07.09.2017.

Mr. Abdul Mueed Shaikh Advocate for applicant/accused
Syed Meeral Shah Bukhari A.P.G.

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ABDUL MAALIK GADDI,J: Having remained unsuccessful in obtaining his release on bail from the trial court in Crime No.70 of 2017 registered U/s 3/4 Prohibition (Enforcement of Hadd) Ordinance, 1979 of police station Dour. Now applicant/accused Hakim s/o Sahib Dino Machhi is seeking his release on bail through instant bail application.

2- Brief facts of the prosecution case are that on 17.6.2017 ASI Pir Bux of P.S.Dour during patrolling received spy information that present accused was manufacturing raw liquor (Desi Wine). As soon ASI Pir Bux with staff reached at village he saw present accused was standing inside his house. After arresting the present accused complainant found one plastic blue cane of 60-litres, two white cane of each 15-litres and 10-litres respectively. The complainant smelled and found Desi Wine in it. Hence after arresting the accused and observance of required formalities the accused was brought at police station where FIR was lodged.

3- It is contended by learned counsel for applicant/accused that case against applicant/accused is false and has been registered due to enmity, beside according to him nothing was recovered from the possession of applicant/accused but complainant who is police official has falsely involved him in this case. Per learned counsel the punishment of the offence if any does not fall within the prohibitory clause of section 497 Cr.P.C and applicant/accused is behind the bars for the last about two months and still charge has not been framed.

4- Learned APG has opposed this bail application on the ground that name of applicant/accused is appearing in the FIR with specific allegation that at the time of incident the applicant/accused was arrested while possessing and selling the contraband liquor.

5- I have given my anxious thoughts to the contentions raised at the bar and gone through the case papers so available before me.

6- It is an admitted fact that challan against applicant/accused has been submitted before the trial court and thus applicant/accused is no more required for investigation. It appears from the record that whole the case of prosecution is based upon the evidence of police officials. No doubt the evidence of police officers are as good as private witnesses but when whole the case rests upon the evidence of police officials, therefore, the evidence is required to be thoroughly scrutinized by the learned trial court in its letter

and spirit. It has been admitted by learned APG that in this case the complainant is the person who investigated the matter himself, therefore, it is yet to be determined at the time of trial whether the investigation and its result can be safely relied upon, this fact also requires further probe, even otherwise nothing has been brought on record that present applicant/accused has been remained indulged in such type of activities in the past. Be that as it may, the offence in which applicant/accused has been booked does not fall within the prohibitory clause of section 497 Cr.P.C.

7- In view of above it is a fit case for grant of bail, therefore, instant bail application is allowed and the applicant/accused be released on bail after his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand only) and PR Bond in the like amount to the satisfaction of trial court. Before parting with the order, I would like to make it clear that observations if any, made in this order, is tentative in nature and shall not affect the merits of the case.

JUDGE

A.Rasheed