

**IN THE HIGH COURT OF SINDH,  
AT KARACHI**

**Present:**

Yousuf Ali Sayeed and  
Adnan Iqbal Chaudhry, JJ

**Criminal Bail Application Nos. 952 & 953 of 2021**

Applicant : Khalilullah, through Qadir  
Khan, Advocate.

Respondent : The State, through Ali Haider  
Saleem, APG.

Date of hearing : 11.06.2021

**JUDGMENT**

**YOUSUF ALI SAYEED, J.** - Through the captioned Applications under Section 497 Cr. P.C, the Applicant, Khalilullah, son of Muhammad Sadiq, seeks post arrest bail in respect of two Reports as to cognizable offences registered on 10.03.2021 on behalf of the State through ASI Sain Dad (the “**ASI**”) under Section 154 Cr. P.C at P.S. Steel Town, being FIR No. 144 of 2021 under Sections 4 & 5 of the Explosives Act read with Section 7 of the Anti-Terrorism Act, 1997 (the “**ATA**”) and FIR No. 145 of 2021 under Section 23(i)(a) of the Sindh Arms Act (hereinafter collectively referred to as the “**FIRs**”), with an unsuccessful attempt to secure bail in that regard having earlier been made vide like Applications preferred before the Anti-Terrorism Court No. 5 at Karachi, where the Special Case Nos. 159 and 159-A ensuing from those FIRs are pending.

2. Concisely, the version of events depicted in the FIRs is that the Applicant was arrested on 10.03.2021 at 1845 hours from the entrance Road of Wali Town near Jamia Masjid Ayesha, Malir by a four-man police party deployed from the aforementioned PS headed by the ASI, with a henna coloured hand grenade wrapped in a khaki envelope, enclosed in a white coloured plastic shopping bag, being recovered from his right shirt pocket and a 30 bore pistol also being recovered from his possession, with the grenade bearing No.65-2006 on its clip while the number of the pistol was rubbed off but the same apparently bore the inscription "CAL 30 Mauser Made As China B/M Sharif-PR".
  
3. Learned counsel contended that the Applicant had been falsely implicated through the FIRs, submitting that he had been picked up by Rangers personnel well prior to the date of arrest as shown, and had then been handed over to the police authorities when it had become apparent that he was not complicit in any criminal activity, with the police then falsely shown him as having been arrested in the manner disclosed in the FIRs on the given date with the grenade and pistol being foisted on him and Section 7 of the ATA being applied so as to further do him in. Learned counsel submitted that the matter merited further inquiry, pending which the Applicant was entitled to bail, and to reinforce that point he invited attention to a letter dated 02.12.2020 addressed by the Commission of Inquiry on Enforced Disappearances (the "**Commission**") to the Home Department, Sindh, reflecting that prior to the date of arrest shown in the FIRs, the Commission was already seized of an application moved by the Applicant's father in respect of his disappearance, which inter alia reads as follows:

“COMMISSION OF INQUIRY ON ENFORCED DISAPPEARANCES  
DIRECTORATE GENERAL CIVIL DEFENCE BUILDING  
(1<sup>ST</sup> FLOOR) MAUVE AREA, SECTOR G-9/1,  
ISLAMABAD.

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December 2, 2020

Please find enclosed herewith a copy of Missing Person application received from Muhammad Sadiq, in respect of the Missing Person cited in the subject.

2. In order to trace the whereabouts of Khalil Ullah s/o Muhammad Sadiq, Home Secretary, Sindh, Karachi is directed to constitute a JIT which may convene its meeting immediately as provided in the Commission of Inquiry on Enforced Disappearances Regulations, 2011. All addressees are directed to initiate measures to locate the whereabouts of the Missing Person at their end, as well.”

4. Conversely, the learned APG opposed the grant of bail, contending that the Applicant had been apprehended in the manner reflected in the FIRs, with the pistol and grenade being recovered from his possession, with the inspection report issued by the Bomb Disposal Unit following the examination of the hand grenade on 10.03.2021, reflecting that the same was functional, being complete with Explosive Ordnance Devices. However, on query posed, he conceded that the Applicant had no prior criminal record, and was not implicated in any case other than those arising from the FIRs.
  
5. Having considered the matter, we would consciously refrain at this stage from embarking on a dissection of the events narrated in the FIR, lest any observation prejudice the course of the trial. However, suffice it to say that there is no allegation of the Applicant resisting arrest or otherwise attempting to escape the clutches of the police party. That and the aspect of the Commission ostensibly being activated as to

his apparent disappearance prior to the date of arrest shown in the FIRs coupled with the absence of any prior criminal record is sufficient in our opinion to bring the matter of his depicted presence at the scene as well as the recovery shown to have been made from him within the realm of further enquiry. As the matter has already been challaned, the Applicant is no longer required for the purpose of investigation, and so far as the applicability or otherwise of Sections 6 and 7 of the ATA is concerned, the same can be looked into and decided by the trial Court after recording of evidence. However, at present, we are of the view that under the given circumstances a case for the grant of bail stands made out accordingly.

7. It is for that reason that we had made a short order upon culmination of the hearing on 11.06.2021, whereby we had allowed the captioned Applications and admitted the Applicant to bail in respect of the FIRs, subject to furnishing of solvent surety in the sum of Rs.100,000/- in each case and execution of a P.R. Bond in the like amount to the satisfaction of the Nazir of this Court.

JUDGE

JUDGE

Karachi  
Dated \_\_\_\_\_