

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 60 of 2022

Applicant : Muhammad Ijaz s/o. Muhammad Sharif,
through Mr. Mallag Assa Dashti, Advocate

Respondent : The State, through Ms. Abida Parveen Channar
Special Prosecutor A.N.F., along with Inspector
Zahid Ali Channa, A.N.F. Clifton, Karachi

Date of hearing : 25.05.2022

Date of order : 20.07.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Muhammad Ijaz s/o. Muhammad Sharif seeks post-arrest bail in Crime No. 39/2021, registered at P.S. A.N.F., Clifton, Karachi under section 9, 14 & 15 of Control of Narcotic Substances Act, 1997 (“**the Act of 1997**”) read with Sections 3 & 4 of the Anti-Money Laundering Act, 2010 (Amended by Act XXX of 2020) (“**the Act of 2010**”). His earlier application for the same relief bearing No. 163/2021 in Special Case No. 75/2021 was dismissed by the learned Special Court-II (Control of Narcotic Substances), Karachi, vide order dated 08.12.2021.

2. It is alleged that, on 15.10.2021, complainant Inspector Zahid Ali Channa of P.S A.N.F. Clifton, Karachi reached the office of M&P Cargo at JIAP, Karachi where he checked two suspicious parcels and recovered heroin weighing 12 KGs and 7 KGs, respectively, concealed in deck/tape recorder. He separated sample for chemical examination and sealed the remaining heroin along with relevant booking documents under a mashirnama. On scrutiny of the documents as well as suspicious parcel, the names of the senders of both parcels were found written as Ahmed Khan, resident of Quetta, whereas names of receivers of alleged parcels were written as Shahbaz and Muhammad Salman resident of Lahore, for which instant F.I.R. was lodged.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case; that the alleged parcels were booked on the names of Salman and Javed alias Shahbaz, resident of Lahore, while the applicant was/is neither the recipient of the said parcels nor his name, cell number or C.N.I.C. number exist on the alleged parcels; that original receipts of booking are not available with the prosecution; that there is no direct or indirect evidence against the applicant to connect him with the commission of alleged offence; that applicant was arrested from Lahore due to exchange of hot words with A.N.F. officials, who illegally arrested his younger brother without any proof or F.I.R.; that the alleged parcels were booked by M&P Cargo at Quetta where A.N.F. officials are posted, who check the parcel minutely and after their clearance, the parcel is booked with all the antecedents of person who books the parcel; however, in the instant case, C.N.I.C. number of Ahmed Khan does not exist which makes the case as one of further inquiry; that the applicant is confined in judicial custody since his day of arrest and A.N.F. has already submitted the challan; hence, his custody is no more required for further investigation; that the trial of the case is likely to take some time and the applicant cannot be kept behind bars for an indefinite period; as such, he is entitled to the concession of bail. In support of his contentions, learned counsel has relied upon the cases of *Dad Khan v. The State* (2020 SCMR 2062), *Khan Zeb v. The State through Special Prosecutor, A.N.F.* (2020 SCMR 444), *Amar Aman v. The State* (2019 YLR Note 68), *Muhammad Alam v. The State* (2018 P.Cr.L.J. 837), *Saida Gul v. The State* (2020 YLR Note 8), *Nasir Aziz and another v. The State* (2020 YLR 1429), *Atif-ur-Rehman v. The State and another* (2021 SCMR 324), *Hussain Ullah v. State and another* (2019 SCMR 1651), *Qamar Zaman v. The State* (2017 YLR 874), *Kamran v. State* [PLJ 2016 Cr. C. (Peshawar) 770], *Abdul Qudoos v. The State and another* (2012 YLR 2387), *Abdul Ghafoor and another v. The State* (2020 P.Cr.L.J. 1512), *Ishtiaq Ahmed Mirza and 2 others v. Federation of Pakistan and others* (PLD

2019 Supreme Court 675), *Asfandyar and another v. Kamran and another* (**2016 SCMR 2084**), *Akhtar Ali Ghowada v. The State* (**2015 MLD 1661**), *Roidad Khan v. The State and another* (**2022 MLD 660**), *State through Advocate General Khyber Pakhtunkhwa, Peshawar v. Shahid Hussain* (**2021 P.Cr.L.J. 1274**) and two unreported orders passed by this Court in *Cr. Bail Applications No. 1502/2018* and *584/ 2021*, dated 23.04.2019 and 20.05.2022, respectively.

4. On the other hand, learned Special Prosecutor A.N.F. has opposed the grant of bail to applicant on the ground that 19 Kilograms heroin powder was recovered from the parcel booked through M&P Cargo for Lahore by the applicant by concealing the same in decks/tape recorders; that the applicant is the real brother of co-accused Muhammad Javed alias Shahbaz, who is also nominated in the F.I.R. as one of the recipients of the alleged parcels; that the applicant earlier received two such parcels as per photographs available in USB; that the alleged offence carries capital punishment; that the recovered heroin was sent for chemical examination and the report of chemical examiner is also in positive; that sufficient evidence is available with the prosecution to connect him with the commission of alleged offence.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that, on 13.10.2021, one Javed Khan alias Ahmed Khan sent two parcel cartons from Quetta through M&P Courier Service; out of them, one was sent by him on the name of recipient Muhammad Javed alias Shahbaz of Lahore (*the brother of present applicant*), while the other parcel carton was sent by him on the name of recipient Muhammad Suleman of Lahore. On being found suspicious, both parcel cartons were checked by the complainant Inspector Zahid Ali Channa at office of M&P Cargo at JIAP, Karachi and found containing 12 & 7 K.Gs heroin, which was concealed in Sharp and Sanyo decks/tape recorders,

respectively. It further appears that, on 15.10.2021, Javed Khan alias Ahmed Khan sent the shipping slips through WhatsApp to applicant in morning time, which he WhatsApped to Muhammad Javed alias Shahbaz and Muhammad Suleman through his cell phone; thereafter, at 03:00 p.m. the applicant along with them reached Head Office of M&P Courier Service, situated at 79-M, Quaid-e-Azam Industrial Estate, Kot Lakhpath, Lahore to receive said shipments. They were asked to wait; meanwhile officials of A.N.F. Lahore arrested them. Latter, on 16.10.2021 complainant Inspector Zahid Ali Channa alongwith his staff reached Lahore and received custody of applicant and aforesaid two other accused persons, the applicant during course of investigation disclosed that he many times in past got the shipments of heroin by concealing the same in tape recorders through M&P Courier Service with the help of co-accused Javed alias Ahmed Khan. He also disclosed that on 02.10.2021 he also received such shipment and after getting the parcel opened, he sold out heroin; however, the empty carton of M&P Courier Service and deck/tape recorder were lying in his house. He led the A.N.F. police to his house bearing N. 50, situated in Medical Housing Society, Blocks Shams, Lahore, where A.N.F. police secured on his pointation one empty carton of M&P Courier Service and two decks/tape recorders. A.N.F. police also secured booking slips of alleged parcels and WhatsApp pictures of booking slips in USB from mobile phone of the accused persons. Besides, during investigation it also transpired that the applicant has made number of transactions of huge amount either by himself or through his men/agents in respect of purchasing of heroin.

7. Perusal of the record further shows that the representative samples of the alleged recovered heroin were sealed separately on the spot and sent to Chemical Analyzer for chemical examination. Positive report of Chemical Analyzer brings the case of the applicant within the scope of prohibition, contemplated by Section 51 of the Act. Applicant's claim with regard to his false implication is an issue

that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. Prima facie, sufficient material is available with the prosecution to connect the applicant with the commission of alleged offence and no case for granting bail to him on the ground of further inquiry has been made out. The case law cited by the learned counsel for the applicant being on distinguishable facts, do not advance the case of the applicant for the grant of bail. Hence, instant bail application is dismissed, accordingly.

8. Needless to mention here that the observations made hereinabove are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

JUDGE

Athar Zai