

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

**Cr. Bail Application No. 2283 of 2021**

Applicant : Nauman Ahmed Siddiqui s/o Mushtaq Ahmed Siddiqui, through Mr. Hassan Sabir, Advocate

Respondent : The State, through Mr. Gulfaraz Khan Khattak, D.A.G., along with I.O/S.I. Waqar Mehmood of F.I.A. ACC., Karachi.

-----

Date of hearing : 31.03.2022

Date of order : 31.03.2022

-----

**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Nauman Ahmed Siddiqui s/o Mushtaq Ahmed Siddiqui seeks post-arrest bail in Crime No. 15/2021 registered under sections 3 & 4 of the Anti-Money Laundering Act, 2010 (Amended by Act XXX of 2020) (“the Act”) at P.S. F.I.A. ACC, Karachi. His earlier application for the same relief bearing No. 141/2021 was dismissed by the learned Special Judge (Central)-II, Karachi, vide order dated 24.11.2021.

2. Briefly, the allegation against the applicant is that he is involved in online sale of C-Class/controlled drugs in USA/UK since 2018 in collaboration with his workers/employees in Pakistan and has contacts with one Atif in Pakistan and outside Pakistan with Jahangir Khan, Sajid and Wasif; that he generated millions of rupees through the sales of the controlled drugs and accumulated the same in his personal bank accounts as well as bank accounts of his companies, namely, M/s. Infinix Tech Solution Pvt. Ltd. Pakistan and M/s. Infinix Technologies Inc., U.S.A; that he offered 100 million rupees (crime proceeds) as bribe to officials of the F.I.A., CTW, Karachi to get undue favour to conceal his criminal act of receiving payments in his Bank accounts and in crypto currency in his personal bitcoin wallet against online sale of controlled drugs and showing/declaring the proceeds under the garb of IT services; that his bank accounts are the properties involved in money laundering as defined under section 2 (xxxii) of the Act, for that he was booked in the aforesaid F.I.R and arrested on 22.07.2021 by the F.I.A, ACC, Karachi.

3. Learned counsel for the applicant has contended that the applicant is innocent and he has falsely been involved in this case for the sole purpose of harassment; that the applicant resides in Karachi, he runs his business/company in the name and style of M/s. Infinix Tech Solution Pvt. Ltd. Pakistan, which is registered with SECP; that through his company, the applicant provides on line services to his customers, he books their orders on line and exports items through courier shipments worldwide; while his parents are residing in U.S.A, where his father runs a company there; that sections 3 & 4 of the Act have no application at all in the case of the applicant; that the F.I.A. has failed to file final Charge-Sheet against the applicant till date; that the alleged offence carries lesser punishment of one year and maximum upto ten years and the facts of the case makes the case of the applicant as one of further inquiry.

4. On the other hand, learned Assistant Attorney General while referring Interim-Charge-Sheet has opposed the grant of bail to applicant on the grounds that sufficient material is available on record to connect the applicant with the commission of alleged offence; that investigation is still going on and Final Charge-Sheet is yet to be filed by the I.O; hence, at this stage, the applicant is not entitled for the grant of bail.

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

6. As per Interim-Charge-Sheet, referred to by the Assistant Attorney General, the applicant is involved in illegal online sale/purchase/distribution of controlled drugs to international customers through Websites i.e. (1) [www.xamaxsupplier.com](http://www.xamaxsupplier.com) (2) [www.ambiensleepguide.com](http://www.ambiensleepguide.com) (3) [www.mysleepingtabs.com](http://www.mysleepingtabs.com) (4) [www.sanaxonlineforsale.com](http://www.sanaxonlineforsale.com) and (5) [www.canadazanaz.com](http://www.canadazanaz.com), which websites are activated on different WhatsApp Numbers of applicant's co-workers, who are equally involved in distribution of controlled drug, receiving the payment at UK/USA of 'selling the drugs using 3<sup>rd</sup> party's accounts. It is also alleged in the Interim-Charge-Sheet that after collecting payment of control drugs from the clients, Jahangir/Wasif sent payments to applicant directly into his bank account as well as in bank account of his wife and in the name of his co-workers through Dollar East Money Exchange, Western Union etc. and after

receiving payment, the applicant distributed 50% shares commission to his team members. It is also alleged in the Interim-Charge-Sheet that the applicant used to pay funds to some suspicious individuals on the special direction of Jahangir Khan from UK and he also received the amount of control drugs transferred by Jahangir Khan in different bank accounts in Karachi. It is also alleged in the Interim-Charge-Sheet sheet that the applicant is working under guidance of Jahangir Khan, who is looking after the supply of controlled drugs and affairs of international financial matters of his illegal business and in this regard Jahangir/Wasif arranged on rent basis local and international accounts numbers and provided the same to customers for payment in order to hide their identity.

7. Under section 3 of the Act, a person shall be guilty of offence of money laundering, if he (a) acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime; (b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime; (c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or (d) participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c).

8. The main allegation against the applicant is that “he is involved in illegal online sale/purchase/distribution of controlled drugs to international customers through Websites”. However, it is an admitted position that no description and details of controlled drugs allegedly purchased or/and sold online by the applicant is available with the prosecution. No documentary evidence is available on record to show on which date(s) the applicant purchased the controlled drugs and sold the same online and what was the mode of receiving and delivery of the alleged purchased and sold controlled drugs. It is also an admitted position that the applicant has received the amount in his accounts either through banking channels or financial service companies i.e. Dollar East Money Exchange, Western Union etc. and there is nothing on record to indicate transfer of money through *Hundi*. There is also no supporting documentary evidence with the

prosecution to prove prima facie that the crypto currency in the personal bitcoin wallet of the applicant was/is the crime proceeds. It is not the matter of mere presumption or assumption but of quality evidence on record to justify the allegations that the property, moveable or immovable, acquired and/or possessed by the accused is proceeds of crime.

9. It has been held by the Apex Court in the case of *Manzoor and 4 other v. State (PLD 1972 SC 81)*, which has been followed by the Apex Court in the case of *Abdul Aziz Khan Niazi v. The State through Chairman, NAB, Islamabad (PLD 2003 SC 668)*, as under:-

*“It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run.”*

10. In the instant case, it is also matter of record that the F.I.R. was lodged against the applicant on 19.07.2021 by the F.I.A. Inspector Jawed Ahmed Babar, who also conducted investigation initially and submitted Interim Charge-Sheet on 09.08.2021, thereafter, the investigation was assigned to F.I.A. Inspector Muhammad Alam Dahri and then to present I.O, namely, F.I.A. Sub-Inspector Waqar Mehmood. The learned trial Court has not taken cognizance on Interim Charge-Sheet submitted by the prosecution and the Final Charge-Sheet has not been submitted till date. As such, the applicant is confined in judicial custody without trial for last about eight months, in a case/offence which carries lesser punishment with imprisonment of one year.

11. For the foregoing facts and reasons, the guilt of the applicant requires further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. entitling him for the grant of bail. Accordingly, instant application is allowed and the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.10,00,000/- (*Rupees Ten Lacs only*) and PR bond in like amount to the satisfaction of the trial Court.

**12.** Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

Above are the reasons of my short order date 31.03.2022.

JUDGE

*Athar Zai*