

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 571 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

24-03-2023

Mr. Muhammad Qasim Niazi, Advocate for applicant.

Mr. Talib Ali Memon, A.P.G.

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Omar Sial, J: Sikander Hussain has sought post arrest bail in crime number 38 of 2023 registered under sections 320, 337-G and 427 at the Gadap police station, Karachi. Earlier his application seeking bail was dismissed by the learned 3rd Additional Sessions Judge, Malir, Karachi on 06.02.2023.

2. The offences with which the applicant is charged are all bailable offences where the grant of bail is a right and not a favor. It appears from the order impugned that perhaps section 322 P.P.C. was later added to the charge. This section has been added because it is claimed by the prosecution that the applicant was driving the vehicle without a licence. At this stage I have not been shown any investigation that was conducted by the investigating officer in this regard. No confirmation from the concerned motor vehicle authority has been shown to me which would prima facie show that the applicant did not possess a license. An offence punishable under section 322 carries a sentence exclusively of the payment of diyat. There is no imprisonment prescribed. Whether or not the applicant is liable to pay diyat can only be determined after the learned trial court has had an opportunity to analyse the evidence produced before it. There appears to be a prima facie conflict between the punishment prescribed in section 322 and its status as a non-bailable offence contained in the Second Schedule of the Code as far as bail during trial is concerned.

3. Above are the reasons for the short order dated 21.03.2023.

JUDGE