

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 479 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

31-03-2023

Mr. Saad Fayyaz, Advocate for applicant.

Ms. Abida Parveen Channer, Spl. Prosecutor ANF a/w SIP Furqan-ur-Rehman, I.O. of the case.

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Omar Sial, J: Hamza Siddique has sought post arrest bail in crime number 98 of 2022 registered under sections 9(2) of the CNS Act, 1997 at ANF's police station in MACHS. Earlier, his application seeking bail was dismissed by the learned Special Judge (CNS-1), Karachi on 25.02.2023.

2. A background to the case is that on 15.12.2022, S.I. Furqan ur Rehman received a phone call from the APX Courier Services that a suspicious parcel has been booked for shipment to Australia. An ANF police party reached the office of the courier and on opening the suspicious box found 3500 grams of methamphetamine in it. The applicant had booked the parcel by giving a copy of his identity card and therefore he was arrested. The F.I.R. in the case was registered on 16.12.2022.

3. I have heard the learned counsel for the applicant as well as the learned Special Prosecutor ANF. My observations and findings are as follows.

4. Learned counsel has stressed on the fact that the applicant was not aware as to what was in the parcel. He submitted that a man by the name of Tehseen, who works in the Fisheries Department had given the applicant the parcel to book for delivery. Tehseen is a co-accused in the case and has admitted before the investigators that the applicant had nothing to do with the parcel, that he was not aware as to what was inside it and that it was he (Tehseen) who had asked the applicant to ship the parcel through courier.

The applicant had done what Tehseen had asked him to do and subsequently also handed over the receipt of the shipment to Tehseen. When Tehseen was arrested on 18.12.2022, the receipt was indeed recovered from his possession.

5. A perusal of the challan filed by the ANF in the Special Court in itself reflects that the investigator was satisfied at the preliminary stage that it was the co-accused Tehseen who was the real culprit and that the applicant was unaware of what was in the parcel. The challan reflects that Tehseen explained his modus operandi to the investigator and it was revealed that he was wanted in an earlier case of attempted narcotics smuggling through courier. Tehseen revealed that in that case he had used his own identity card to book the parcel and was therefore caught. In the present case, he deceived the applicant to use his identity card for the booking, and that Tehseen had deliberately kept an expired identity card in his possession. He was aware that if he renewed the identity card he may be arrested in the earlier case. Tehseen appears to be a conniving person. The investigator was also satisfied that a WhatsApp chat which apparently is in his possession also revealed that the applicant was not aware of the contents of the parcel. It appears that the ANF is itself doubtful as to the involvement of the applicant in the crime. Be that as it may whether the applicant and Tehseen were in a joint partnership in the smuggling attempt will have to be proved at trial. There is nothing on record to show that the applicant and Tehseen shared a common intention. In light of the investigation conducted by the ANF till this stage, the case against the applicant is one of further inquiry.

6. The applicant is admitted to bail subject to his furnishing a solvent surety in the sum of Rs. 500,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE