

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1030 of 2023

Applicant : Iqrar Ahmed s/o. Noor Sat Khan, through
Mr. Rehman Ghani Khattak, advocate

Respondent : The State, through Ms. Abida Parveen Channar,
Special Prosecutor A.N.F

Date of hearing : 07.06.2023
Date of order : 07.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Iqrar Ahmed s/o. Noor Sat Khan seeks post-arrest bail in Crime No. 102/2022, registered at P.S. A.N.F. Muhammad Ali Society, Karachi under section 6/9 (2) of the Control of Narcotic Substances (Amendment) Act, 2022 (*“the Act”*). His earlier application for the same relief bearing Bail Application No. 01/2023 was dismissed by the learned Special Judge-I (C.N.S.), Karachi, vide order dated 02.05.2023.

2. It is alleged that, on 20.12.2022, complainant S.I. Rashid Ali of P.S., ANF- Muhammad Ali Society, Karachi arrested the applicant at Head Office of APX Courier Company, situated at Shahrah-e-Faisal, Karachi on being recovered 56 kg drug-soaked cotton from six stoves; then he brought the applicant at Daewoo Karachi Terminal, where on the pointation of the applicant he took in his possession two stoves and recovered 21 kg drug-soaked cotton. Thereafter, on 21.12.2022 at 0150 hours, the complainant, on the pointation of the applicant, secured three stoves and recovered 11.5 kg drug-soaked cotton from Room No.401 of the Qatar Hotel, for which the applicant was booked in the aforementioned F.I.R.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case by the A.N.F. officials by leaving the actual culprit; that the applicant has nothing to do with the alleged offence directly or indirectly and no reasonable grounds exists to believe that he has

committed the alleged offence; that the complainant has allegedly recovered suspicious drug-soaked cotton from three different places but he miserably failed to associate even a single private person although private persons were available at all three places of alleged recovery; that the complainant has also acted as the I.O. and both the witnesses of arrest and recovery are the same and they are interested witnesses; that it is not clear as to what was/is the actual weight of the suspected drug soaked in the cotton as the complainant and the Chemical Examiner have mentioned gross weight of the drug-soaked cotton; that even the Chemical Examiner's report does not reveal actual weight of the suspected drugs but the complainant charge sheeted the applicant under section 9(2) of the Act on the basis of recovery of 88.50 kg suspected drug-soaked cotton, which fact alone creates doubt in a prudent mind about the actual guilt of the applicant and benefit thereof should go in favour of the applicant at bail stage.

4. Conversely, learned Special Prosecutor, A.N.F. has opposed the grant of bail to applicant on the grounds that huge quantity of drug-soaked cotton concealed secretly in the stoves has been recovered, which was booked by the applicant for dispatching to Saudi Arabia through a courier company, and on his arrest from the spot, he led the officials of the A.N.F. to Daewoo Karachi Terminal and Qatar Hotel, from where they recovered on his pointation huge quantity of drug-soaked cotton; that the applicant has not alleged any enmity with the A.N.F. officials for implicating him falsely in this case; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence.

5. Heard, record perused.

6. It appears that, on 20-12-2022 at 1700 hours, upon information of one Malik Babar, the owner of the APX Courier Company, regarding the booking of six big and small suspicious stoves by the applicant for dispatching to Saudi Arabia, the complainant reached the Head Office of the said company located on Shahrāh-e-

Faisal and upon checking of said suspicious stoves by breaking them open, he recovered 56 kg drug-soaked cotton. On scrutiny of the documents, the name of the sender was found written as Iqrar Ahmed (*applicant*) whereas name of receiver of the alleged parcel was Muhammad Rehman R/o Al-Abeer Medical Centre, Bawadi Jeddah, Saudi Arabia. Upon his disclosure during interrogation, A.N.F. officials brought the applicant at Daewoo Karachi Terminal, Sohrab Goth, Karachi, at 2240 hours, where two large-sized stoves, booked through Asad Cargo Shipment were also recovered with sender's name as Ameer, resident of Peshawar, having the recipient's name as Tariq Mehmood, resident of Karachi. On breaking open the same, drug-soaked cotton weighing 21 kg was recovered. Thereafter, on 21.12.2022 at 0150 hours, the said complainant, along with his sub-ordinate staffs and applicant reached Qatar Hotel, where he met Manager Anwar Kamal, who disclosed that the applicant was residing in Room No.401 with one Wahidullah S/o Murad Khan @ Haji, who was out of hotel since evening. The complainant along with his sub-ordinate staff, applicant and the Manager of the Hotel got the said room opened with duplicate keys and recovered three similar stoves; he (*complainant*) broke them open and recovered 11.5 kg drug-soaked cotton. Total 88.50 kg drug-soaked cotton was recovered from the constructive possession, which was sealed on the spot by the A.N.F. officials under three separate *mashirnamas* and sent to the Chemical Examiner for analysis on 23.12.2022; as per report thereof, the same contained Methamphetamine (ICE).

7. Under the Schedule-I to the Act, Methamphetamine is specified at serial No. 47 as '*psychotropic substance*'. Section 9 (2) of the Act provides punishments with life imprisonment for possessing, importing or exporting and trafficking any '*psychotropic substance*' in contravention of sections 6, 7 and 8 of the Act for more than four kilo grams in quantity. Hence, the positive report of the Chemical Examiner brings the case of the applicant within the scope of prohibition, contemplated by Section 51 of the Act. Applicant's claims with regard to his false

implication in the instant case is the issues that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. As regard the arguments of learned counsel for the applicant regarding non-revealing of actual weight of the Methamphetamine in the drug-soaked cotton, suffice it to say that the same may be explained and determined by the trial Court after recording evidence of the prosecution witnesses. As regard non-association of any private person to witnesses the alleged recovery, it may be observed that section 25 of the Act excludes the applicability of Section 103, Cr. P.C.; therefore, association of witnesses from the public is not mandatory in the cases registered under the Act. It has been observed by the Apex Court in the case of *Muhammad Noman Munir v. The State and another* (2020 SCMR 1257), while rejecting bail plea in a case of 1380 grams of cannabis with 07 grams of heroin, as under;

“Insofar as non-association of a witness from the public is concerned, people collected at the scene, despite request abstained to assist the law and it is so mentioned in the crime report itself, a usual conduct symptomatic of societal apathy towards civic responsibilities. Even otherwise, the members of the contingent being functionaries of the State are second to none in their status, with their acts statutorily presumed, prima facie, as intra vires.

8. Prima facie, sufficient material is available with the prosecution to connect the applicant with the commission of alleged offence. Hiding illicit drugs within the fibers of material including cotton is not a new way of smuggling. Liquid drugs are poured even into the fabric of clothes and then the process is reversed to extract the drug without losing a single gram. Trafficking/smuggling of methamphetamine in huge quantity can have devastating effects on the society generally and it is a threat to honour of the country in international community particularly. No case for granting bail to applicant on the ground of alleged further inquiry has been made out; hence, instant bail application is dismissed, accordingly.

9. 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.

Above are the reasons of my short order dated 07.06.2023.

JUDGE

Athar Zai