

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 2521 of 2023**

Applicant : Muhammad Raza Ali
through Mr. Muzammil Qureshi, Advocate

Respondent : The State
through Mr. Altaf Ahmed Sahar,
Assistant Attorney General

Date of hearing : 18th December, 2023

ORDER

OMAR SIAL, J.: Mohammad Raza Ali has sought post-arrest bail in crime No. 11 of 2023 registered under sections 4,5 and 23 of the Foreign Exchange Regulation Act 1947 and 109 and 34 P.P.C. at the FIA's Corporate Crime Circle. His earlier bail plea was dismissed on 14.10.2023 by the learned 4th Addition Sessions Judge, Karachi East.

2. The FIA received information that the applicant is involved in the illegal sale and purchase of foreign currency. The FIA was also told that on 5.9.2023, the applicant will deliver foreign currency to a client. FIA investigators reached the spot and saw the applicant sitting in the car with Syed Usama Hasan; 15000 USD were found in the vehicle, and the applicant told the FIA that he and his companion, Muhammad Usama, were both engaged in the illegal sale of foreign currency. The applicant also acknowledged bringing the 15000 USD at Syed Usama Hasan's request.

3. I have heard the learned counsel for the applicant and the learned Assistant Attorney General. My observations and findings are as follows.

4. Learned counsel for the applicant has argued that the applicant deserves to be admitted to bail on the grounds of consistency as Syed Usama Hasan, co-accused in this case, was admitted to bail by this court on 31.10.2023. Learned A.A.G submits that the applicant's counsel is correct

but draws a distinction between the two cases on the ground that the dollars in question were purchased by the applicant for which he does not have any receipt, whereas the dollars were bought allegedly on the request of the co-accused Syed Usama Hasan. The learned A.A.G is correct in his submission regarding the roles assigned to the two accused. However, I believe that looking at the case holistically, the transaction is such that the applicant should get the benefit of the bail granted to Usama Hasan.

5. It is also pertinent to note that possessing foreign currency is not a crime; however, per FERA, only authorised dealers can buy and sell dollars. Indeed, the allegation against the two is that they have bought and sold dollars but are not authorised dealers. The dollars have been seized and are with the State Bank. Any loss to the state exchequer has been preempted. The FIA is relying on photocopies of WhatsApp messages to show the involvement of the applicants in the offence; however, I have been informed by the learned A.A.G that forensics on the mobile device of the applicants is still not complete and that there is no compelling evidence at the moment to show that the applicant has been involved in transferring foreign currency through the informal channel of hawala/hundi. The admissibility of the evidence collected by the I.O. in this case is also yet to be determined. While making an allegation that the applicant is involved in hawala/hundi, the investigating officer relies on a photocopy of a banknote, which prima facie does not show anything to connect the applicant with the alleged crime. The offence which the applicant is charged carries a potential sentence of up to 5 years and thus falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in view the principals annunciated in **Tariq Bashir and 5 others vs The State (PLD 1995 SC 34)**, I do not find any exceptional or extraordinary grounds to deny the applicant bail. It would be reasonable, however, to enhance the surety to deny the applicant from harbouring any further desires to purchase foreign currency on the black market.

6. The applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of rupees 1 million and a P.R. bond in the like amount to the satisfaction of the learned trial court.

JUDGE