

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Bail Application No. 31 of 2024

For hearing of Bail Application.

Applicant/ Accused : Kashif Ali son of Pathan Khan through Mr. Shah Imroze Khan, Advocate.

The State : Through Mr. Ashiq Ali Anwar Rana, Special Prosecutor Customs alongwith I.O. namely; Muhammad Sagar, who is present in Court.

Date of hearing : 25-04-2024

Date of order : 25-04-2024

*FIR No. ASO -439/2023-HQ
u/s: 2(s), 16, 156(2) & 157(2) of the Customs Act, 1969
punishable under clauses (89) & (90) of section 156(1) ibid
P.S. Collectorate of Customs Enforcement, Karachi.*

ORDER

Adnan Iqbal Chaudhry J. - The Applicant seeks post-arrest bail in the aforesaid crime after the same has been declined by the Special Judge (Customs, Taxation & Anti-Smuggling) Karachi vide order dated 23-01-2024.

2. The FIR was lodged on 28-10-2023 when a passenger bus coming to Karachi from Balochistan was searched at Moachko check-point to recover 14.8 kg narcotic substance and 440 sachets containing 2200 cartridges of 'Boostin Plus Injection' of foreign origin, all of which was concealed in a cavity engineered for the purpose within the roof of the bus. Abdul Wahid was arrested as the driver of the bus, and Muhammad Hanif and Kamran Akbar, who were bus cleaners, as accomplices. They were granted bail by this Court vide order dated 12-03-2024.

3. Heard the counsel for the Applicant and the Special Prosecutor for Customs.

4. This bail application of course is confined to the offence alleged under the Customs Act, 1969 i.e. the smuggling of Boostin Plus Injections. Apparently, Boostin Injections are administered to

cows/buffalos for enhancing their capacity to produce milk, and due to its hazardous effect on the quality of milk so produced, the Supreme Court of Pakistan had placed a ban upon the import, manufacturing and sale of Boostin injections *vide* order dated 06-01-2018 passed in C.P. No. 2374-L of 2016. However, despite that order, Boostin Injections are not included in Appendix-A of the Import Policy Order, which is the negative list of banned items.

5. The Applicant was arrested on 27-11-2023 on suspicion that he was one of the distributors to whom the co-accused Abdul Wahid had delivered 'contraband goods' through a taxi driver namely Muhammad Shafi. However, the distribution of goods allegedly made to the Applicant in the challan appears to be of narcotics, specifically marijuana. It appears that the I.O. has made no distinction between 'boostin' injections and 'narcotics'. The distribution of the latter is an offence under the Control of Narcotics Substances Act, 1997, not the Customs Act, 1969. In any case, no recovery of any goods was made from the Applicant.

6. The allegations against the Applicant call for a further inquiry which brings the case under sub-section (2) of section 497 Cr.P.C. Therefore, the Applicant is granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that the observations above are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

SHABAN*