

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Bail Application No. 194 of 2024

Applicant/ Accused : Waheed Ahmed son of Abdul Majeed through M/s. Rana Sakhawat Ali and Ghulam Nabi Shar, Advocates.

The State : Mr. Zulfiqar Ali Arain, Special Prosecutor Customs.

Date of hearing : 23-01-2025

Date of order : 23-01-2025

*FIR No. 01/2024-25/343 dated 20.11.2024
U/S: 2(s) and 32 of the Customs Act, 1969
r/w SRO 566(1)/2005 dated 06.06.2005, further
r/w SRO 499(1) 2009 dated 13.06.2009 punishable
under clause 8 & 89 of section 156(1) of Customs Act,
1969 and 157(i) & (2) of the Customs Act, 1969 and
violation of Import Policy Order 2022 and
SRO 1619(1)/2024 dated 03.10.2024
Custom Office Sukkur*

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 and Anti-Smuggling-I), Karachi by order dated 17.12.2024.

2. Heard learned counsel and Special Prosecutor and perused the record.

3. The Applicant was arrested as the driver of a 10 wheeler truck, intercepted at a check-post at Kashmore, coming from Balochistan and heading towards Lahore, which was seized along with goods alleged to be smuggled namely, a brand of China-made Ajinomoto Salt, different brands of skimmed milk powder made in Iran, and old and new tyres.

4. While Monosodium Glutamate, also known as Ajinomoto Salt, had been added to Appendix-A of the Import Policy Order as a banned item, it has not been included in the list of smuggled goods vide SRO No. 566(1)(2005) dated 06.06.2005 issued under section 2(s)

of the Customs Act, 1969. 'Skimmed milk powder' also does not find mention in that notification. Therefore, the offence of smuggling and its punishment prescribed in clauses 8 and 89 of section 156(1) of said Act do not seem to be attracted. Reliance can be placed on the cases of *Shabbir Ahmed Shah v. Pakistan* (1980 PCrLJ 349) and *Hiam Tabbara v. Director-General, Pakistan Coast Guards* (PLD 1980 Karachi 44). As regards the seized tyres, the FIR does not mention that those are of foreign-origin.

5. Furthermore, the Applicant is not the owner of the seized goods and it is yet to be seen whether as driver of the truck he was aware whether the goods being transported were prohibited or restricted items. Therefore, the case against the Applicant is also of further inquiry.

6. For the foregoing reasons, the Applicant, Waheed Ahmed 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 observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

PA/SADAM

JUDGE