

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 179 of 2024

Applicants/ Accused : (i) Najeebullah s/o Muhammad Rauf
(ii) Muhammad Qasim s/o Gul Sher
(iii) Gul Sher/ Gul Jan s/o Abdul Ghaffar
through Mr. Aqil Ahmed, Advocate.

The State : Nemo.

Date of hearing : 20-01-2025

Date of order : 20-01-2025

*Case No. ASO-1067/2024-HQ
U/s: 2(s), 15, 16, 17, 178, 187 of the Customs Act, 1969,
punishable under sub-clause 19i) of clause(8), clause 85 clause
(89) of Section 156(1) r/w 156(2) & clause (1) & (2) of Section
(157) and section 3(1) of the Import & Exports Control Act, 1950*

ORDER

Adnan Iqbal Chaudhry J. - The Applicants seek post-arrest bail after the same has been declined by the Special Judge (Customs Taxation and Anti-Smuggling-I), Karachi by order dated 07.12.2024. Repeated notices have been issued to the Complainant, the Special Prosecutor Customs and the Collector of Customs (Enforcement), but no one has turned up to contest the bail application.

2. The offence alleged against the Applicants is of smuggling foreign-origin cloth. As per FIR, on a tip of received from the Military Intelligence, two Suzuki pickups spotted at Pakistan Bazar, Orangi town, Karachi were signaled to stop, but give chase; that eventually when those pickups were stopped, those were found to be carrying foreign-origin cloth without any import documents; and that at the time of seizure, Customs Officers were also assaulted by 3/4 persons who had arrived there on motorcycles armed with sticks and stones. Najeebullah son of Muhammad Rauf (Applicant No.1) and Muhammad Qasim son of Gul Sher (Applicant No.2) were arrested as

the drivers of said Suzuki pickups, whereas Gul Sher/Gul Jan son of Abdul Ghaffar (Applicant No.3) was arrested as one of the persons who had assaulted the Customs Officers. As per the interim challan, the Applicant No.3 was also the owner of the smuggled cloth.

3. Heard learned counsel and perused the record.

4. Though the allegation is of smuggling foreign-origin cloth, neither the FIR nor the interim challan make any mention of the country of origin. There is no disclosure as to how the Customs officers ascertained the cloth to be of foreign-origin or smuggled especially when the seizure was made near a local cloth bazar. As regards the allegation that the Application No.3 had assaulted Customs officers during the seizure, the FIR does not say that he inflicted any injury. Therefore, the case against the Applicants requires a further inquiry into their guilt. None of the offences alleged fall within the prohibitory clause of section 497 Cr.P.C.

5. For the foregoing reasons, all three Applicants namely (i) Najeebullah s/o Muhammad Rauf, (ii) Muhammad Qasim s/o Gul Sher, (iii) Gul Sher/ Gul Jan s/o Abdul Ghaffar are granted bail in the aforesaid FIR subject to furnishing solvent surety in the sum of **Rs.100,000/- [Rupees One Hundred Thousand only]** each 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