

THE HIGH COURT OF SINDH AT KARACHI

Special Criminal Bail Application No. 93 of 2024

[Syed Asad Hussain Abidi v. The State]

Applicant : Syed Asad Hussain Abidi son of Syed Shahzad Hussain Abidi through Mr. Aqil Ahmed, Advocate.

Respondent : The State, through Naimatullah Soomro, Special Prosecutor, along with I.O. Shakeel Abbas.

Date of hearing : 30-09-2024

Date of decision : 30-09-2024

FIR No. P-3621/2024-JIAP (Int'l Arrival)

Dated 11.08.2024

U/S: 2(s), 16, 17, 139, 178 & 187 of the Customs Act, 1969 punishable under sub-clause (d)(i) of

Clause(8), clauses (70) & (89) of Section 156(1) ibid r/w 2(b), 16 of the Baggage Rules, 2006, notified vide SRO666(1)/2006

Dated 28.06.2006, r/w condition provided at serial No.29 of Appendix-B of Import Policy Order, 2016

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-I), Karachi by order dated 02.09.2024.

2. Per the FIR, the accused passenger, namely Mirza Aneeq Taimuri was intercepted at Jinnah International Airport, Karachi around 02:45 a.m. on 11.08.2024 when he attempted to use the Green Channel for clearing baggage on arrival from Dubai. A search of the baggage revealed dutiable high-end smart watches and airpods. Another bag with his name tag was strategically left by him on the baggage belt. A search of that bag also revealed high-end mobile phones and accessories. All items were valued at Rs.7,863,336/- and Taimuri was booked for the offence of smuggling as defined in section 2(s) of the Customs Act, 1969. The investigation revealed that a staff member of the airline handling agency, Gerrys Dnata may be complicit. In that regard the Applicant was interrogated as the staff member on duty at the time for Gerrys Dnata. He was arrested when he allegedly confessed that he had on many occasions bought and sold mobile phones through the accused Taimuri. He was thus booked as an Taimur's accomplice to smuggling for offences

punishable under clauses 8(i)(d) and 89(i) of section 156(1) of the Customs Act.

3. Heard learned counsel and perused the record.

4. The Applicant has been arrested on suspicion of being an accomplice to smuggling by the main accused, Taimuri. However, he was not apprehended at the same time as the principal accused, but upon subsequent investigation. No recovery was made from him. Though the interim challan dated 26.08.2024 alleges that he was on duty for Gerrys Dnata at the time the flight of the principal accused arrived, however, the time sheet of the employees of Gerrys Dnata reflects that the Applicant was absent from duty on the said date viz. 11.08.2021. On 29.08.2024, the I.O. also filed a statement before the trial Court to state that the Applicant was absent from duty at the relevant time.

5. The Applicant's confession if any, that he had previously bought and sold mobile phones through the principal accused was firstly a confession obtained in custody, and secondly it was not a confession of the smuggling attempted on 11.08.2024. Therefore, the case against him is one of further inquiry falling within the ambit of sub-section (2) of Section 497 Cr.P.C.

6. The custody of the Applicant is no longer required for investigation. It is also not alleged that he is a flight risk.

7. In view of the foregoing, the Applicant, Syed Asad Hussain Abidi is granted bail in the aforesaid crime subject to furnishing solvent surety in the sum of Rs.500,000/- [Rupees Five Hundred Thousand only] alongwith P.R. Bond in the like amount to the satisfaction of the trial court.

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

JUDGE

Karachi

Dated: 30-09-2024

*PA/SADAM