

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Bail Application No. 69 of 2024

For hearing of Bail Application.

Applicant/ Accused : Imran Hussain son of Abdul Rehman
Komboh through Mr. Sohail Baig
Noori, Advocate.

The State : Through Mr. Zulfiqar Ali Arain,
Special Prosecutor Customs alongwith
I.O. Attaullah Noonari.

Date of hearing : 07-10-2024

Date of order : 07-10-2024

*FIR No. 04 of 2023
u/s Section 2(9), 2(14), 2(16), 2(17), 2(37), 3,6,7, 8, 8A, 8(1),
(ca), 8(1), (caa), 8(1)(d), 11, 21(3), 22, 23, 25, 26, 34, 52A (5)
& 73 of the Sales Tax Act, 1990
punishable under section 33(11), 33(13), 37A of the STA, 1990
PS: Assistant Commissioner IR, Unit-IX, Zone-II, RTO Hyderabad.*

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) by order dated 01-06-2024.

2. The FIR was lodged against one Sanjay Kumar of Moosa Corporation for tax fraud, defined in section 2(37) of the Sales Tax Act, 1990, more specifically for using fake and flying sales tax invoices to claim input tax during the period November 2022 to April 2023. The Applicant was implicated in the second interim challan dated 14-05-2024 on the statement of one of the accused persons namely Yasir Latif, who allegedly stated that the Applicant had aided him in submitting false sales tax returns online. The Applicant was thus arrested in May, 2024.

3. Heard learned counsel and the Special Prosecutor Customs.

4. The Applicant was apparently implicated on the statement of one of the accused persons namely Yasir Latif. As per the final challan dated 06-07-2024, which has yet to be accepted by the trial court, the Applicant was engaged by Yasif Latif for gathering data of inactive companies registered for sales tax, so that their registration could be misused to generate fake sales tax invoices, and that the Applicant also assisted Yasir Latif in the filing/uploading of false sales tax returns. But then, to implicate the Applicant the challan has lumped together transactions in respect of 14 separate business entities. The challan does not specify whether the Applicant was found involved in tax fraud in relation to Moosa Corporation of Sanjay Kumar to which the subject FIR is confined. Therefore, the case against the Applicant is one of further inquiry, falling within the ambit of sub-section (2) of section 497 Cr.P.C.

5. The offences alleged against the Applicant are punishable under sections 33(11) and 33(13) of the Sales Tax Act. The maximum imprisonment provided therefor does not exceed 5 years, and which may or may not follow in addition to fine. Therefore, the offences alleged do not fall within the prohibitory clause of section 497 CrPC.

6. Custody of the Applicant is no longer required for investigation. Since, evidence is documentary and already in the custody of the I.O., there is no purpose of keeping the Applicant behind bars during trial.

7. For the foregoing reasons the Applicant is granted post-arrest bail in FIR No. 04/2023 subject to furnishing solvent surety in the sum of Rs.1,000,000/- (Rupees One Million only) and 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*