

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.427 of 2025

Applicant : Khursheed Abdul Qudoos, through Mr. Umar Farooq, Advocate

Respondent : The State
Through Mr. Mohsin Ali Khan, Special Prosecutor ANF alongwith Dr. Abdul Saleem Qadeer, Chemical Examiner, Government of Sindh Karachi and Mr. Abdul Hafeez, Chief Drug Inspector.

Date of hearing : 11.03.2025

Date of order : 11.03.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, the applicant/accused seek post-arrest bail in Crime No.25 of 2024 registered under Sections 9(2), 9, 14, 15 CNSA 1997 Amendment Act, 2022 at Police Station ANF Clifton, Karachi, after his bail plea has been declined by the learned Special Court-II (CNS) Karachi, vide order dated 07.02.2025.

2. The details and particulars of the FIR is already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, in fact the applicant is innocent and has falsely been implicated in this case as he is simple Commission Agent, and on the basis of that he has been booked in this case otherwise the I.O of the case at the police report filed by him under Section 173 Cr.P.C in (challan) has stated that there is no evidence available against the applicant/accused to proceed against him. He further submits that since the I.O has exonerated him from the commission of offence. The applicant/accused is also entitled for grant of bail. Lastly, he submits that the applicant/accused is in jail and no more required for further investigation and prayed for grant of post-arrest bail. In

support of his contention, he has relied upon the case law reported as 2023 P Cr.LJ 282 [*Mairajuddin v. The State*].

4. On the other hand, learned Special Prosecutor ANF vehemently opposed for grant of bail and states that PW Sikandar, PW Syed Asif, PW Hameedullah and PW Muhammad Ayaz have implicated the present applicant/accused with the commission of offence. He submits that the matter may be adjourned for tomorrow for calling I.O of the case; however, when it was confronted that he read over the word stated by the I.O wherein he has stated that no sufficient material is available against the applicant/accused even then he requested the court for adjournment. In fact, the evidence is available in the shape of documents viz. police report in which he was exonerated by the I.O of the case. As such, the request of learned Special Prosecutor ANF is declined. He lastly prayed for dismissal of the bail application.

5. Heard learned counsel for the parties and perused the record.

6. From the perusal of record, on 15.05.2024, consequent upon receiving spy information by her superiors as to narcotics being smuggled to UAE through export container No.MEDU-2281532 held off at KGTL, complainant Inspector Shahnaz Fatima of PS ANF Clifton taking her staff left vide *roznamcha* entry No.14 and reached KGTL port, Karachi. IN presence of *mashirs* PC Munam and PC Daud of her party she inquired Clearing Agent of consignment Sikandar son of Abdul Ghani who was available near held off container who handed her export papers. They showed A&F Shipping Agency had given consignment note. Atif Enterprises had given commercial invoices, M/s Shipner Shipping Agency had issued loading program while exporter was Atiq Enterprises and importer was Infinity Logistics of UAE. On unsealing container, ANF team found 168 cartons of confectionery of lollypops and bunties while included nine cartons containing 335880 Xanax (Alprazolam) 0.5 mg tablets weighing 69.57 kg and subsequently applicant was arrested. The claim of the applicant/accused is that he is a Commission Agent and he

has falsely been implicated in this case and such version can be confirmed from the police report filed by the I.O under Section 173 Cr.P.C wherein he has stated that there is no sufficient evidence available on record to connect the applicant/accused with the commission of offence. Furthermore, four PWs have implicated the applicant/accused with the commission of offence on the ground that he has prepared all the invoices and other documents. However, learned counsel for the applicant/accused denied such allegations when it is confronted that the said documents were sent to the expert for verification of writing and signature of the applicant/accused. Learned Special Prosecutor ANF is unable to reply properly to the court.

7. On the last date of hearing, Director Laboratories and Chemical Examiner, Government of Sindh so also Chief Drug Inspector, Sindh were called. Today, they are present and Chemical Examiner informed the court that the tablets falls within the definition of narcotics substance; however, Chief Drug Inspector submits that the recovered tablets falls within the definition of drug and registered under Schedule-B of Sindh Drugs Rules 1979 and it is a registered drug. Further, learned counsel for the applicant also invited attention of the court that each tablet contains Alprazolam 0.5 mg in the present case, Xanax tablet having weight is 0.5 mg, as such it will be seen when the evidence will be recorded as to whether the recovery from the said container belongs to the narcotics or as a drug. The case of the applicant/accused requires further investigation. At bail stage, only tentative assessment is to be made. The applicant/accused is in jail and he is no more required for further investigation and his further detention will not improve the case of the prosecution.

8. In view of the above, learned counsel for the applicant/ has made out a case for grant of bail in terms of subsection 2 of Section 497 Cr.P.C. Resultantly, the instant Criminal Bail Application is **allowed**, the applicant is granted bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees

One Hundred Thousand Only) with P.R. bond to the satisfaction of the learned trial Court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE

Hyder/PA