

## **IN THE HIGH COURT OF SINDH AT KARACHI**

### **Criminal Bail Application No.613 of 2025**

Applicant : Muhammad Zafar Iqbal, through Mr. Shaukat Ali, 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 26.02.2025.

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 a Clearing Agent and he has been booked in this case only on the basis of undertaking and no any substance is loaded in the container. Learned counsel further submits that if any undertaking is available on the record, the same is forged and fabricated. The applicant has never signed the same, during investigation, the applicant has requested the I.O of the case to send the undertaking to the expert for its verification of his signature and his writing but the same was not done. He further submits that the only allegation against the applicant is that he has purchased lollypop (confectionary) which is not an offence even PW has not

implicated the applicant with the commission of alleged offence. 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 in fact the applicant has given undertaking that no Narcotics is available in the container and subsequently the narcotics was found in the container.

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 that narcotics is smuggled to UAE through export container No.MEDU-2281532 held off at KGTL, complainant Inspector Shahnaz Fatima of PS ANF Clifton alongwith her staff vide *roznamcha* entry No.14 reached at KGTL port, Karachi. IN presence of *mashirs* PC Munam and PC Daud of her party she inquired Clearing Agent of consignment namely Sikandar son of Abdul Ghani who was available near held off container who handed her export papers. They showed that A&F Shipping Agency had given consignment note. M/s Atif Enterprises had given commercial invoices whereas M/s Shipner Shipping Agency had issued loading program while exporters were Atiq Enterprises and importers were Infinity Logistics of UAE. On unsealing the container, ANF team found 168 cartons of confectionery i.e. lollypops and bunties while nine cartons containing 335880 Xanax (Alprazolam) 0.5 mg tablets weighing 69.57 kg were found and subsequently applicant was arrested and he informed the I.O of the case that he has not signed the undertaking of the said container as he is a simple Clearing Agent and has no concerned with the alleged offence as he has only purchased lollypop and bunties.

7. As far as the plea raised by the learned Special Prosecutor ANF that on the basis of undertaking, the applicant/accused has been booked in this case. However, he has denied his signature and I.O of the case has not sent the said documents for verification about the genuineness of the

signature. Per learned counsel, the applicant is a Clearing Agent having no concerned with the alleged offence.

8. 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. However, 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. Further, learned counsel for the applicant invited attention at page No.99 wherein another drug ALP is used as 0.2; hence the case of the applicant/accused becomes the case of further inquiry. At bail stage, only tentative assessment is to be made. The applicant/accused is in jail and his further detention will not improve the case of the prosecution.

9. 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.

10. 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.

Hyder/PA

JUDGE