

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appl. No.2821 of 2023

Date Order with signature of Judges

For hearing of Bail Application

02.02.2024.

Mr. Muniruddin, advocate for the applicant.

Mr. Abrar Ali Khichi, Additional Prosecutor General Sindh.

Mohammad Karim Khan Agha, J. Applicant Dad Allah is facing trial in respect of FIR No.354 of 2023 of PS Tipu Sultan, Karachi lodged under Section 3/4 Foreign Act, 1946. He moved is second post arrest bail application which was declined vide order dated 24.11.2023 by Xth Additional Sessions Judge (South) Karachi, hence the applicant has approached this Court for post-arrest bail.

2. Brief facts of the case are that the complainant on 11.10.2023 was on patrol and when he reached at service road at Nizam Lassi at about 0045 hours, he found a person in mashkook condition, who was apprehended and disclosed his name as Dad Allah. He also disclosed that he was an Afghan citizen hence the aforesaid FIR was lodged.

3. I have heard the learned counsel for the parties and perused the record.

4. It is an admitted position that offence under which the applicant was charged carries maximum sentence of 03 years imprisonment and in such likes cases the general rule is that bail should be granted unless exceptional circumstances exist which justify the refusal of bail. In this case exceptional circumstance do exist as the applicant is an Afghan national and if the bail is granted to the applicant he might abscond keeping in view the fact that the Government of Pakistan has issued directions that all Non-Pakistani/Afghan Nationals be deported. However, NADRA report which is placed on record, prima facie, shows that applicant is an Afghan National who holds an Afghan Citizen Card which according to learned Addl. Prosecutor General can enable him to stay in Pakistan. The case also revolves around documentary evidence as such

there is no chance of tampering with the evidence by the applicant. The applicant is also no longer required for investigation.

5. Based on the above discussion, I find that the applicant has made out a case for post-arrest bail as such the applicant **Dad Allah son of Muhammad Sadiq** is granted post arrest bail subject to furnishing him solvent surety in the sum of Rs.50,000/- (Fifty Thousand Only) and P.R. Bond in the like amount to the satisfaction of the trial court.

6. This order is based only on a tentative assessment of the evidence and the learned trial Court shall proceed and decide the case on merits within three (03) months of the date of this order. Copy of this order shall be sent to Additional Sessions Judge-X (South) Karachi for compliance.

7. The instant criminal bail application stands disposed of in the above terms.

JUDGE