

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.**

CrI. Bail Application No. S-356/2024.  
(Mumtaz Hussain Baladi vs. The State)

Date of hearing	Order with signature of Judge
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1. For orders on office objections.
2. For hearing of bail application.

**O R D E R.**  
**12.09.2024.**

Mr. Sohail Ahmed Khoso, Advocate for the applicant.  
Mr. Shafi Muhammad Mahar, D.P.G.

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**Mehmood A. Khan, J.** The applicant seeks post arrest bail in crime No.88 of 2024 under section 9 (d) of Control of Narcotic Substances Act, 1997 registered at Police Station Kumb, District Khairpur lodged by state, after rejection of his bail plea as ordered by learned trial Court in its order dated 08.05.2024

2. It is alleged that on arrest from the applicant has been secured 21 kilograms of hemp/bhang by the police party of Police Station Kumb for that he was booked and reported upon by the police.

3. Learned counsel for applicant contends that the arrest of the applicant was never made as alleged in the matter and in this regard he has submitted photocopy of video clip available as to the said arrest. He further contends that in case a forensic examination of the said video is made out, his defense will be available with certainty and the case is liable to be dismissed. Learned counsel further contends that a complaint under Illegal Dispossession Act has been filed by the applicant and before the allegation made out in the present FIR, present FIR is result of said enmity which has been managed on the part of prosecution. Learned counsel also contends that another co-accused was subsequently brought in who has since been granted bail and as such applicant may be considered accordingly. He further contends that present applicant having been falsely implicated, he

has made a case of further enquiry. Learned counsel for applicant relied upon the case of Zahid Sarfraz Gill v. The State (2024 SCMR 934) and un-reported order dated 01.08.2024 in CrI.P.L.A286/2024 (Ubaidullah alias Baido vs. The state through P.G Sindh) passed by Honourable Supreme Court of Pakistan requires the prosecution in such case to use latest equipments which is absent in the present case apart from the compliance of Section 103 Cr.P.C.

4. Learned DPG however, contends that the arrest in the matter was made at spot, huge quantity has been recovered from applicant. He further contends that prosecution witnesses has supported the version of complainant and the offence is against the society. He submits photocopy of CRO according to which there are eleven other cases, present applicant has history having other cases apart of present one and the applicant having the past criminal record. He further contends that co-accused was brought in the matter on the basis of statement of complainant recorded under section 162 Cr.P.C and in this regard the said case is not identical to the case of present applicant. He further contends that now the provision of Section 9(1) (d) of CNS Act, 1997 is applicable which carries punishment of imprisonment to life or minimum 14 years and as such the case falls under porhibitory clause of Section 497 Cr.P.C. He has relied upon the cases of Muhammad Afzal vs. The state (2018 YLR Note 85), Noor Khan vs. The state (2021 SCMR 1212), Ghulam Hussain alias Sudheer vs. The state (2024 YLR 1061) and an unreported order dated 22.07.2024 of this Court passed in Cr.B.A No. S-369 of 2024 (Re. Azam Ali sheikh vs. State).

5. Learned counsel for applicant in rebuttal contends that all merits and circumstances are liable to be linked into and as such bail may be considered and that in the cases referred to in the CRO the applicant has since been acquitted.

6. Having heard learned counsel for the applicant, learned D.P.G and gone through the record.

7. The offence falls under the prohibitory clause of section 497 Cr.P.C. The allegation though may be challenged and liable to be interpreted both ways. The concession of bail is provided under the specific guidelines wherein the punishment along with the circumstances are required to be assessed in the tentative form. In narcotic cases, possession of the contraband is the offence. Without any substantial ground shown the said element of illegal possession cannot be conveniently made subject to further enquiry. In the present case wherein only a tentative assessment is to be made not substantial material is brought up to consider and entertain the present applicant for entertainment of the said concession. Learned DPG was called upon as to the number of witnesses available in the matter as challan has been submitted to which he states that the complainant and two witnesses may be required for the trial Court to conclude the matter required for further consideration. In the circumstances the Court is expected to atleast examine the complainant and two mashirs witnesses within the period of two months, where after the applicant may file bail application for re-entertainment on the grounds available with him in accordance with law.

The captioned bail application stands disposed of as untenable, in accordance with the stated directions.

**J U D G E**

Irfan/P.A