

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**
Cr. B.A. No.S-1137 of 2014.

DATE

ORDER WITH SIGNATURE OF JUDGE

For hearing.

16.09.2015.

Mr. Junaid Soomro, advocate for the applicant.

Mr. Shahid Ahmed Shaikh, A.P.G.

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NAZAR AKBAR, J.- After rejection of his earlier bail application vide order dated 26.09.2014, passed by learned IIIrd Additional Sessions Judge, Hyderabad, the applicant has approached this Court seeking post-arrest bail in Crime No.107/2014, under section 23-A, Sindh Arms Act, 2013, registered at Police Station Tando Jam.

2. Brief facts of the prosecution case, as stated in the FIR, are that on 24.08.2014 in between 2130 to 2140 hours one TT Pistol alongwith 03 live bullets was recovered by the complainant from the arrested accused of Crime No.106/2014 of Police Station Tando Jam, under sections 324, 353, 34 PPC and F.I.R. was registered accordingly.

3. Learned counsel for the applicant mainly contended that the applicant has been falsely involved in this case; that he is no more required for investigation purpose; that the present case is offshoot of Crime No.106/2014 of Police Station Tando Jam, under sections 324, 353, 34 PPC, in which the applicant has been granted bail by this Court by order dated 27.08.2015, passed in Cr. B.A. No.1136/2014, therefore, he is entitled for bail in the present crime also. In support of his contention learned counsel placed copy of the order dated 27.08.2015 on record.

4. Mr. Shahid Ahmed Shaikh, the learned A.P.G, appearing on behalf of the State opposed the bail application.

5. I have heard the arguments of learned counsel for the applicant, learned A.P.G. appearing for the State and perused the record carefully. In the

present case all the prosecution witnesses are police officials, hence there is no apprehension of tampering with the evidence; that the case has been challaned and the applicant is no more required for investigation purpose; that the present case is offshoot of Crime No.106/2014 of Police Station Tando Jam, under sections 324, 353, 34 PPC, in which the applicant has been granted bail by this Court by order dated 27.08.2015, passed in Cr. B.A. No.1136/2014, therefore, the case of the applicant falls within the ambit of further inquiry as contemplated under section 497(2) Cr.P.C. In Section 24 of The Sindh Arms Act, 2013, it is mentioned that punishment of un-licensed arm may extend to ten years and with fine. The case of the applicant falls within the definition of "arms" as contemplated by section 2 of The Sindh Arms Act, 2013, whereby maximum punishment is up to ten (10) years as provided under section 24 of the said Act. The discretion is however left open with the Court by the legislature either to award maximum punishment to the accused or to award lesser punishment keeping in view the surrounding circumstances commensurating with the nature of the case; that the Court while hearing bail application does not have to keep in view the maximum sentence provided by statute but the one which is likely to be entailed in the facts and circumstances of the case. In the present case, one unlicensed 30-Bore pistol has allegedly been recovered from the possession of the applicant. It has been argued by learned counsel for the applicant that police had ill-will against the applicant to foist such pistol upon him; that the prosecution has submitted challan before the learned trial Court and there is no likelihood of the applicant to tamper with the prosecution evidence. It is well settled law over the past decades that bail cannot be withheld as punishment. Accordingly, the applicant is admitted to bail subject to furnishing solvent surety in the sum of Rs.50,000/- (fifty thousand) and P.R. Bond in the like amount to the satisfaction of the trial Court.

JUDGE

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