

**IN THE COURT OF JUDICIAL MAGISTRATE-XII/MFC,  
QUETTA.**

FIR No.343/2024.  
P.S. Brewery,  
Quetta.

Mirwais son of Khuda-e-Dad  
Resident of Quetta.

....ACCUSED/APPLICANTS.

**VERSUS**

The State.

....RESPONDENT.

**OFFENCE UNDER SECTION 9(1), 3-b OF  
CONTROL OF NARCOTIC SUBSTANCE ACT,  
1997.**

**APPLICATION UNDER SECTION 497 CR.P.C.  
FOR GRANT OF BAIL.**

MISS Aster Mchak Advocate, learned counsel for the accused/  
applicant.

Mr. Dawood Khan, ADPP/Representative for state.

**ORDER**

**19<sup>th</sup> November, 2024.**



1). Through this order, I intend to dispose of the above title bail application filed by accused/applicant through his counsel for his bail, in case FIR No.343/2024 at Police Station Brewery, Quetta in respect of Offence under Section 9(1), 3-b of CNC Act, 1997.

2). Brief facts of the prosecution case as per contents of F.I.R No.343/2024 of Police Station Brewery, Quetta are that the complainant namely Khan Jan ASI/DO lodged the above mentioned FIR, contending therein that he alongwith other police officials were busy in the investigation of case FIR No.341/2024 under Section 15-D of Arms Act read with Section 337-H(2) in the premises of Arif Kurd situated at Gulshan Hassan Hazara Town, Quetta, in the meanwhile at about 8:35 P.M the accused named above was apprehended and from his possession 423-Grams Charass were recovered, subsequently the complainant lodged the above mentioned FIR.



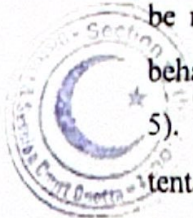
3). Notice of the said application has been given to state representative (ADDP) and record was called.

4). Learned counsel for the applicant/accused argued that the accused/applicant is innocent and falsely been implicated in the instant case by the complainant with malafide intention and ulterior motive just to blackmail and pressurize the accused /applicant, while on the other hand the area of arrest of accused/applicant was thickly populated area but the prosecution failed to examine any private witness and violated the express provisions of Section 103 of Cr.P.C, while on the other hand the alleged recovery falls on border line and comes within the ambit of prohibitory clause. He lastly prayed that the applicant/accused be released on bail. While on the other hand non appeared on behalf of state.

5). I have heard the arguments and perused the record tentatively and also deposition of counsel for the accused /applicant that case in hand is one of further inquiry as envisaged under Section 497 (2) of Cr.P.C. The alleged offence does not fall within the ambit of prohibitory clause of Section 497 (1) Cr.P.C, while on the other hand the question of violation of express provisions of Section 103 of Cr.P.C also makes the case of prosecution one of further inquiry, as such in cases which are not punishable with death or imprisonment for life or punishment for 10 years, wisdom is sought from the judgment in the case of **Bashir Tariq Vs. The State (PLD 1995 SC 134)** is the effect that the grant of bail is a rule and refusal is an exception, while on the other hand I, have further honor to place reliance on the case law reported as:

**“Mohammad Tanveer v. The State (PLD 2017 Supreme Court 733)”.**

*“ Once this Court held in categorical terms that grant of bail in offences not falling within the prohibitory limb of Section 497 Cr.P.C shell be a rule and refusal shell be an exception then, the Courts of the country should follow this principle in its letter*





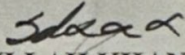
*and spirit because principle of law enunciated by this Court are constitutionally binding on all Courts throughout the country including the Special Tribunals and Special Courts”.*

6). Therefore, on the basis of above mentioned reasons the instant bail application of accused/applicants is accepted, subject to furnishing surety bond in the sum of Rs.1,00,000/- (Rupees One Lac) or with P.R of like amount to the satisfactory of the court. Application after completion and compilation be annexed with the Challan after its receipt.

7). Needless to add here that observations, if any, made herein above are purely tentative in nature, which shall not effect the merits of the case .

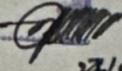
Given under my hand and seal of this Court on this 19<sup>th</sup> day of November, 2024.

Announced in open Court.

  
(SAIFULLAH KHAN TAREEN)  
Judicial Magistrate-XII/MFC  
Quetta.

Certified to be True Copy  
SUPDT:  
District & Session Judge, Quetta.  
Article 87 of the Qanoon-e-Shahadat Order / 1984

Compared By  
Section Writer

  
27/02/2025