

86/24

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

AD  
DT  
AFR

**Present:**

JUSTICE MUSARRAT HILALI  
JUSTICE MALIK SHAHZAD AHMAD KHAN

**CRL.P.L.A.NO.1038 OF 2024**

*[On appeal against the order dated 09.09.2024 passed by the Lahore High Court, Lahore, in Crl.Misc.No.47402-B of 2024]*

***Amna Naz***

**...Petitioner**

**VERSUS**

***The State & another***

**...Respondents**

For the Petitioner	: Mr. Shan Zeb Khan, ASC
For the Respondents	: Mr. Hassan Nawaz Makhdoom, Addl. AGP Mr. Nadeem Mehmood, ASC Ms. Huria Fatima, Advocate Khawaja Ziauddin, Inspector Customs
Date of Hearing	: 07.11.2024

**ORDER**

**Musarrat Hilali, 1.**— The petitioner's post arrest bail was declined by the Lahore High Court, Lahore (the 'High Court') vide order dated 09.09.2024 in case FIR No.31 dated 25.06.2024 registered under sections 2(s), 16, 139, 156(1), (8)(i)(d)(70), 157, 178 & 187 of the Customs Act, 1969 and sections 3(1) & 3(3) of Import & Export (Control) Act, 1950, SRO dated 666(1)/2006 dated 28.06.2006 read with serial 55 Appendix-B Part-I Import Policy Order, 2022 read with serial 30 of Notification SRO No.566(1)/2005 dated 05.06.2005, SRO No.499(1)2009 dated 13.06.2009 at Police Station Investigation & Prosecution Cell, Collectorate of Customs, Allama Iqbal International Airport, Lahore.

2. Allegation against the petitioner is that she was found in possession of 26 foreign made Iphones while using green channel of International Arrival Hall of Allama Iqbal

International Airport, Lahore and she could not produce any document of ownership or any document of import.

3. Arguments heard and record perused.

4. Record transpired that on checking 26 foreign origin Iphones valuing rupees 78,46,798/- were recovered from the petitioner while she was passing through the green channel of arrival hall at the Allama Iqbal International Airport, Lahore and was arrested on the spot. Both the courts below have declined the post-arrest bail considering that the offence alleged against the petitioner falls within the prohibitory clause of section 497 Cr.P.C.

5. Admittedly, the petitioner is a woman and her case should have been examined by the courts below under first proviso to section 497(1) Cr.P.C if she was not found entitled to bail under section 497(1) Cr.P.C<sup>1</sup>. The courts below should have considered the bail application of the petitioner on its own merits taking into account the petitioner's background, nature of offence and the likelihood of abscondence. The court's decision to dismiss the bail application solely based on the sentence prescribed under the law is unjust as there are precedents where courts have granted bail in cases where the prescribed sentence was significant. Apart from above, the petitioner has no criminal history and there is no apprehension of her abscondence. The travel history of the petitioner alone is not a sufficient ground to believe that she was engaged in such kind of illegal activities. Besides, the prosecution has already gathered all necessary evidence and the petitioner is no more required for custodial interrogation, therefore, keeping her in jail without a court verdict would be equivalent to convicting the petitioner without due process.

6. In view of the above, this petition is converted into an appeal and is allowed. The impugned order dated

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<sup>1</sup> 2023 SCMR 887

09.09.2024 is set-aside and the petitioner is admitted to post-arrest bail, subject to furnishing bail bonds in the sum of Rs.200,000/- with two sureties in the like amount, to the satisfaction of the trial court.

ISLAMABAD

07.11.2024

~~Not~~ APPROVED FOR REPORTING