

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Criminal Bail Application No.S-1310 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>11-05-2015</u>	For hearing.
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Miss Shazia Yaseen Khan advocate for applicant.

Mr. Shahid Ahmed Shaikh, A.P.G. Sindh along with SIP
Shafi Bangash on behalf of SSP Hyderabad.

The applicant through the instant application has prayed for granting bail in crime No.186/2014 of PS Qasimabad, Hyderabad for the offence under section 9 (c) of CNS Act, 1997.

The allegations against the applicant are that complainant namely SIP Wazir Ali Rajar along with his subordinate staff on a tipoff arrested him from Technical College Hyderabad on 05-09-2014 and recovered 1100 grams of chars from his possession. Besides the applicant, another accused namely Kamal was also arrested by the police and from him also 1100 grams of chars was recovered. Such memo of arrest and recovery was prepared at the spot. The applicant was brought at PS where instant FIR was registered against them.

Miss Shazia Yaseen Khan advocate for the applicant has argued that the applicant has been falsely implicated in this case. She has further contended that the case of prosecution is of further inquiry because not only the memo of arrest and recovery but the FIR also shows that date and time of incident as 05-09-2014 at 1700 hours which is not humanly possible, as at the same time the memo showing arrest of the accused and registration of FIR cannot be done and the same has put the veracity of prosecution story in jeopardy. Besides the above contention, she has also argued that the case against the applicant is of border line falling between the clauses (b) and (c) of section 9 of CNS Act, 1997. According to her,

investigation is complete; the accused is no more required for further investigation and against him there is no any criminal case registered. She further states that the applicant is first offender. She has lastly prayed for bail.

Mr. Shahid Ahmed Shaikh, learned A.P.G. Sindh has opposed the grant of bail on the ground that the offence committed by the applicant is against the society.

I have heard both the counsel and perused the material as is available on record. As per allegations against the applicant he was arrested and chars of 1100 grams was recovered from him. The ambiguity which has been pointed out by the learned defense counsel has not properly been explained by the learned A.P.G. Sindh as to how the time mentioned in the memo of arrest and recovery and FIR has come to be the same. Moreover, the investigation against the applicant is complete and his incarceration behind the bars is of no effect to the prosecution. Learned A.P.G. Sindh has admitted that there is no past criminal history of the applicant and for the first time he has been apprehended in the present case which on account of quantum of recovery is between clause b and “c” of section 9 CNS Act, 1997. In view of above, I am of the view, the applicant has made out the case for grant of bail.

Accordingly, the applicant is granted bail on his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) with PR Bond in the like amount, to the satisfaction of trial Court.

Criminal bail application stands disposed of.

JUDGE

A.C