

ORDER SHEET
IN THE HIGH COURT OF SINDH, AT KARACHI.

Criminal Bail Application No.2747 of 2023

Date	Order with signature of Judge
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For hearing of bail application.

25.01.2024.

Mr. Imdad Ali Malik, Advocate for the applicant.
Mr. Abrar Ali Khichi, Additional Prosecutor General.

MOHAMMAD KARIM KHAN AGHA, J:- The Applicant Nadeem Nasir S/o. Wakeel Nasir is facing trial before the Ist Additional Sessions Judge Karachi East in respect of FIR No.927/2023 U/s. 6/9(1)(3)(c) of CNS Act registered at P.S. Gulistan-e-Jauhar, Karachi. The applicant applied for post-arrest bail, however, the same was declined vide order dated 27.10.2023 by the Additional District & Sessions Judge Karachi East, hence the applicant has applied before this court for post-arrest bail.

2. The brief facts of the case are that on 15.10.2023 at about 10:50 a.m. the complainant SIP Abdul Hameed posted at Police Station Gulistan-e-Jauhar alongwith police officials namely PC Muhammad Sachal, PC Muhammad Paryal, DPC Muhammad Younus were on patrolling duty on Police Mobile Registration No.SPD-393 to control the crime in the area and during patrolling, the complainant received spy information that one person, who was wearing Shalwar Kameez is going towards Central Road, Block-5/6, University Road, Karachi and having charas and he can be arrested. On this information the complainant reached at pointed place and on the pointation of spy informer caught one person, who disclosed his name Nadeem Nasir S/o. Wakeel Nasir. Due to non-cooperation of private witnesses his personal search was conducted in presence of police officials and during his personal search two pieces of charas was recovered from the folder of his wearing Shalwar. The complainant weighted the same through digital scale and found its weight of charas 2150 gms, thus the act of the accused comes with the ambit of Section 9(i)3(c) of CNS Act 2022, therefore accused person was arrested

accordingly and complainant also sealed the case property and brought the accused at Police Station and lodged the F.I.R.

3. I have heard learned counsel for the applicant and the learned Additional Prosecutor General Sindh and perused the record.

4. The applicant was arrested on spot on the basis of spy information and in his possession was found 2150 gms of charas. The arresting officer and mashir of recovery had no enmity or ill will against the applicant and had no reason to implicate the applicant in false case. As per FIR it is apparent that no person was prepared to become an independent mashir in this case and in any event such provision is excluded from the CNS Amendment, 2022. The recovery of narcotics when sent to chemical examination produced a positive chemical report. There is no substantial delay in lodging the FIR. The offence carries the sentence between 09 to 14 years, thus it is discretion of this Court as to whether bail should be granted in narcotics cases which is a crime against the society which leads also the other crimes such as theft in order to satisfy the habits of addicts. Narcotics dealers also prey on young children and need to be deterred.

5. Learned counsel for the applicant has contended that the applicant was arrested prior to the date shown in the FIR and has pointed to a letter which he sent in this regard to the concerned SHO. It is noted however, there is no proof of delivery of TCS receipt. I find that this is a matter of the trial court to determine at trial as at the bail stage deeper appreciation of evidence is not permitted. In view of the above discussion, the post-arrest bail of the applicant is dismissed. The trial court is however, directed to complete the trial of the applicant expeditiously. A copy of this order shall be sent to Ist Additional Sessions Judge Karachi East for compliance. It goes without saying that their order will have no influence on the outcome of the trial which will be decided on the evidence on record expeditiously by the trial court.

6. The bail application is disposed off.

JUDGE