

37

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st Cr. Bail Appln. No. S-180 of 2022

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
25.04.2022.	

1. For orders on office objection.
2. For hearing of Bail Application.

Mr. Habibullah G. Ghouri, advocate for the applicant.

Mr. Imran Ali Abbasi, Asst. P.G.

O R D E R.

Through this application, applicant Ghulam Mustafa Channa seeks post arrest bail in Crime No. 19/2022, registered with Police Station Seeta Road, District Dadu, for offences punishable under Sections 419, 337-J, PPC. Such his request was turned down twice by the learned Additional Sessions Judge-IV, Dadu vide orders dated 12.3.2022 and 31.3.2022.

On 08.3.2022, complainant ASI Fida Hussain lodged F.I.R with Sita Road Police Station, stating therein that on that date he along with his staff left police station under entry No.11 for patrolling as well as for arrest of fake doctors, during which near Peechar Mori complainant received spy information that one Ghulam Mustafa Channa by constructing room runs a clinic and posing himself as doctor was providing treatment to the villagers and injecting and prescribing medicines to them. On receipt of such information, the police party went to pointed place, where they found one person sitting in the room posed to be a clinic and one stethoscope, one B.P. Operator, one drip sekolet, two Neuroban injections, disposal syringes and one touch mobile Oppo Company, were lying. Police party arrested the accused, conducted his personal search and recovered cash of Rs.600/- in different denomination. On enquiry, person failed to produce any valid degree. Such memo of his arrest and recovery was prepared in presence of mashirs, HC Mohammad Hussain and PC Manzoor Ali. The police then brought accused and recovered property to police station, where this case was registered against the accused on behalf of State.

Learned Counsel submits that this is case of no evidence. He further submits that no person victim of poisonous medicines or to whom any poisonous medicine was allegedly prescribed by the applicant, has been examined or cited as a witness of the alleged offence. He further

submits that mere recovery of the articles shown in the FIR does not connect the applicant with the commission of any offence. Lastly, learned Counsel submits that the case against the applicant requires further enquiry in terms of sub-section (2) of Section 497, Cr.P.C.

Learned Asst. P.G. does not oppose the bail application, on the ground that the case against the applicant is of further enquiry.

Heard arguments and perused the record.

This is a case where the accused has been shown as quack doctor/medical practitioner, who while was running the clinic, was arrested; however, not a single person has been shown to be available on spot claiming himself to be a patient or was examined by the police later-on, to whom applicant allegedly had administered poisonous medicine or the material including intoxication for causing hurt to him/her. In such a situation, when no victim was available or examined by the police, to whom the applicant had allegedly administered poisonous material, whereby he caused hurt to him/her, no offence u/s 337-J, PPC was attracted. In absence of any victim or any aggrieved person, application of Section 337-J, PPC was immaterial. In view of above legal flaws in the case, basic ingredients for constituting an offence under Section 337-J, PPC are lacking in this case. Moreover, and no such incident as per available record has ever been reported with police before this incident or after registration of instant case against the applicant by any aggrieved person/victim to believe that applicant had allegedly administered wrong medicine or any poisonous material to him/her. Therefore, the case against the applicant, in view of above legal position, requires further enquiry within the meaning of sub-section (2) of Section 497, Cr.P.C. Learned Asst. P.G. has rightly conceded for grant of bail.

Accordingly and in view of above, instant bail application is hereby allowed. Applicant shall be released on bail subject to his furnishing solvent surety in the sum of Rs.50,000/- and P.R. bond in the like amount to the satisfaction of learned trial Court.

JUDGE