

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.1562 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application

10.04.2019

M/s. Sagheer Ahmed Khan & Naseer Ahmed Khan, advocates for
the applicant.

Ms. Rubina Qadir, D.P.G. Sindh.

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1. Through instant bail application, applicant/accused Bilal Khan son of Nadir Khan, seeks bail after arrest in **FIR No.401/2016**, under **Section 6/9-B** CNS Act, **1997** registered at police station Docks, Karachi. Earlier the applicant/accused approached the Special Court-II (C.N.S) Karachi for post arrest bail, which was declined vide order dated **22.10.2018**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. Brief facts of the prosecution case as per FIR are that Complainant ASI Khadim Hussain alongwith other police officials during patrolling arrested the accused on 13.10.2018 at Alfalah Chowk, Mama Yaqoob's Street, Karachi and recovered charas in shape of Garda weighing 210 grams from his possession, hence the FIR was lodged.

3. Learned counsel for the applicant contended that applicant/accused is innocent and has falsely been booked in this crime by the complainant. He further contended that alleged recovery is foisted upon the applicant as nothing has been recovered from possession of the applicant, therefore,

the case requires further inquiry, and his case does not fall within the prohibitory clause, therefore, applicant / accused is entitled for concession of bail.

4. Learned Addl. P.G opposed the bail application contending that recovery is made from the applicant/accused and present applicant is also involved in identical case under FIR No.93/2015 for identical offence and the record shows that after taking bail in FIR No.93/2015 the accused and accomplices are all absconding from the trial, therefore, the present applicant is not entitled to concession of bail.

5. Learned counsel for the applicant has relied upon the following case law:-

- i. Ehsan Ullah ..Vs.. The State (**2012 SCMR 1137**)
- ii. Qamar @ Mitho ..Vs.. The State and others (**PLD 2012 SC 222**)
- iii. Muhammad Sadiq ..Vs.. Sadiq and others (**PLD 1985 SC 182**)

6. I have heard the arguments and perused the record and I have noticed as under:-

- i. No independent eye witness is joined in order to attest the memo of arrest and recovery.
- ii. Since small quantity of charas is involved presumption of malafide of police cannot be ruled out.
- iii. The offence does not fall within the prohibitory clause.
- iv. He is no more required for further investigation; therefore, no useful purpose would be served by

keeping the applicant behind the bars for indefinite period.

7. In view of the above, the applicant Bilal Khan son of Nadir Khan, is admitted to bail subject to furnishing solvent surety in the sum of **Rs.50,000/-** and P.R bond in the like amount to the satisfaction of trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE

SM