

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.294 of 2019

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

For hearing of bail application _____

16.05.2019

Mr. Allah Warrayo, advocate for the applicant.
Ms. Amna Ansari, Addl.P.G. Sindh.

-.-.-.-.-

1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.31/2018**, under **Section 6/9-C CNS Act, 1997** registered at police station Chuhar Jamali. Earlier the applicant/accused approached the Special Judge Control of Narcotic Substance, Thatta for post arrest bail, which was declined vide order dated **06.09.2018**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. Brief stated facts of the case are that on 27.08.2018 at 1800 hours, complainant SIP/SHO Shafi Muhammad Godo of Police Station Chuhar Jamali lodged FIR, stating therein that on 27.08.2018, he alongwith subordinate staffs namely HC-Abid Hussain, and HC-Abdul Hameed being armed with ammunition, boarded in government vehicle No.SPC-977 with DPC-Asadullah vide roznamcha entry No.09 at 1600 hours, left police station for patrolling. During patrolling at different places when they reached at Ghar Wah Shahbunder road at about 1615 hours, where they received spy information that Dhani Bux Khoso was selling the charas at Sheedi Stop. On such information, they reached at the pointed place at about 1630 hours where they saw one person was standing there and one grey colour shopper was in his hand, on seeing police party he tried to run

away but police stopped their vehicle and apprehended him and police recovered grey colour shopper, the same was checked and found 15 small and big pieces of charas were in it. On inquiry, accused disclosed his name as Dhani Bux son of Khadam Hussain by caste Khoso, residinet of Lal Khan Khoso, Taluka Mehar, District Dadu. The charas was weighed which became 3970 grams. During personal search, police recovered 03 currency notes of Rs.100/- each and 02 notes of Rs.50/- each total donomination of Rs.400/- and one small scissor from side pocket of his shirt and also disclosed that he brought the charas from Karachi for selling purpose. The charas was sealed alongwith grey colour shopper at the spot for chemical examination and police also sealed separately currency notes and scissor. Such mashirnama was prepared in the presence of mashirs HC-Abid Hussain and HC-Abdul Hameed. Accused and recovered property were brought at police station Chuhar Jamali where FIR was registered in the manner as stated above.

3. Learned counsel for the applicant contended that applicant is resident of Mehar, District Dadu who was arrested by the police of District Dadu; therefore, mother of the accused preferred Crl. Misc. Appln. No.2141/2018 in the Court of District & Sessions Judge/Justice of Peace, Dadu; thereafter custody of the accused person was handed over by the Dadu police to Thatta police and Thatta police had foisted the charas upon the accused. Learned counsel further contended that nothing was recovered from the possession of the accused but he is victim of enmity with the Dadu police. He has further contended that applicant/accused is innocent and has falsely been booked in this crime by the police, 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 therefore, the present applicant is not entitled to concession of bail.

5. I have heard the arguments and perused the record.

6. Precisely the ground for grant of bail is that all the three accused were arrested by the police at one point of time as the photograph attached with bail shows. However, two accused have been nominated in FIR No.53/2018 registered at P.S Rukun, District Dadu and the present applicant has been shown arrested at Sajawal P.S Chuhar Jamali.

7. Learned State counsel was unable to explain that how this magic took place. She further relied on the case reported as *Muhammad Saeed Khan and another ..Vs.. The State* (2018 P.Crl.J Note 126). However, neither she is having copy of the judgment in her hand nor the book. I cannot believe her for what even she says a finding of Court since book is not available with her.

8. In view of the above, the applicant / accused is admitted to bail subject to furnishing solvent surety in the sum of **Rs.2,00,000/-** and P.R bond in the like amount to the satisfaction of trial Court.

9. 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