

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Crl. Bail Appln: No.S-180 of 2018.

Muhammad Safar Applicant.

Versus.

The State. Respondent.

Mr. Shahzada Ali Nawaz T.M. Sakhani Chandio, Advocate for
the Applicant.

Ms. Sana Memon, APG.

Date of hearing and order 14.06.2018.

O R D E R

IRSHAD ALI SHAH, J. It is alleged that on 17.01.2018, on arrest from the applicant was secured 1500 grams of Opium and from co-accused Sikandar Ali was secured 2300 grams of Opium by the police party of P.S Jamshoro, which was led by ASI Ghulam Hussain Solangi, for that the instant case was registered against them.

2. On having been refused post-arrest bail by the learned trial Court, the applicant has sought for the same from this Court by making the instant bail application under section 497 Cr.P.C.

3. It is contended by the learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police, there is no independent witness to the incident, quantity of the opium allegedly recovered from the present applicant is constituting a border line case between clause-B and C of Section 9 of CNS Act, as per policy the maximum punishment which the applicant is likely to be awarded for the alleged offence would be R.I. for four years and fine. By contending so he sought for release of the applicant on bail as according to him his case is calling for further inquiry. In support of his

contention, he relied upon cases of **Ghulam Murtaza and others v. The State (PLD 2009 (Lahore) 362)**, **Abdul Salam vs. the State** which is reported at **2018 P.Cr.L.J Note 94** and **order dated 12.2.2016** of this Court passed in **Cr.B.A.No.S-1245 of 2015** wherein accused carrying with him 1100 gram of opium was admitted to bail.

4. Learned APG has opposed to grant of bail to the applicant by contending that the offence which he allegedly has committed is affecting the society at large.

5. I have considered the above arguments and perused the record.

6. There is no independent witness to the incident. The case has finally been challaned. The applicant is in custody for about five months without any active progress in his case. There is no chance of tempering with the evidence. The liability of the applicant is tentatively to the extent of the recovery of the Opium which is allegedly made from him, it is constituting a border line case between clause-B and C of Section 9 of CNS Act. In these circumstances, it is rightly being contended by learned counsel for the applicant that the applicant is entitled to be released on bail as his case is calling for further enquiry.

7. In view of above while relying upon the case law which is referred by the learned counsel for the applicant, the applicant is admitted to bail subject to his furnishing surety in the sum of Rs.50,000/= and PR bond in the like amount to the satisfaction of learned trial Court.

8. The instant bail application stands disposed of in above terms.

JUDGE

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