

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Bail Application No.651 of 2020

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DATE            ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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For hearing of bail application

Muhammad Jameel            ..Vs...            The State

**09.06.2020**

Malik Muhammad Tariq, advocate for the applicant.  
Ms. Rahat Ahsan, Addl.P.G. Sindh.

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1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.400/2017**, under **Section 6/9/C** of CNS Act, 1997 registered at police station Mominabad Karachi. Earlier the applicant/accused approached the Special Court No.1 (Control of Narcotic Substances) Karachi for post arrest bail, which was declined vide order dated **28.03.2020**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. Brief facts of the prosecution case are that on 02.10.2017 at 0500 hours, ASI Ahmed Yar (the complainant), alongwith subordinate staff of P.S Mominabad, during patrolling in the area on pointation of spy informer arrived at Masqati Muhallah, inside Street, Faqir Colony, Sector-10, Orangi Town, Karachi noticed one person in suspicious condition, hence they apprehended him and who disclosed his name Muhammad Jameel son of Moosa. The complainant conducted his personal search in presence of two mashirs namely PC Rashid Taqi and PC Noor Wazir and from his right hand recovered plastic shopper containing charas quantifying 4 kilograms. The accused and case property were brought at P.S where instant FIR was lodged against present accused.

3. Learned counsel for the applicant contended that applicant/accused is innocent and has falsely been implicated in this case with malafide intention and nothing has been recovered from the possession of the applicant/accused and the alleged recovery has been foisted upon the applicant. Learned counsel further contended that applicant/accused is in

custody since 02.10.2017 in the present case and prosecution has failed to examine any single witness.

4. Learned Addl. P.G opposed the bail application contending that recovery has been affected from the accused.

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

- i. Today is the fourth date of hearing and the learned counsel for the State does not have police papers and chemical report.
- ii. Order sheet dated 21.05.2020 of the instant bail application shows that learned Investigating Officer has blatantly refused to appear before High Court. The order dated 21.5.2020 is reproduced below to appreciate the courage of the I.O and concerned SSP.

“On the last date of hearing, notice was issued to the I.O and as per Bailiff’s endorsement, the said notice was received by SIP/Javed Akhtar under his own signature and seal of the concerned office but today, I.O is not present before this Court and there is also no intimation received from his side. Issue Show-cause Notice against the I.O through concerned SSP with direction to appear before this Court on the next date of hearing alongwith police papers without fail.

Adjourned to 09.06.2020”.

- iii. It is indeed very unfortunate that despite the fact there are only three witnesses who are police officers in the case registered against the applicant on **02.10.2017** but they have never appeared in Court to record their evidence against the applicant.
- iv. The challan was submitted on 21.10.2017 and after almost three years no evidence has been recorded.

- v. Learned counsel has pointed that prosecution has failed to even mention the quantity of the contraband said to have been recovered from the applicant.
- vi. The Prosecution is silent with regard to facts in para (iii), (iv) and (v) above and has no material to contest this bail application.
- vii. Applicant/accused is behind the bars for more than three years and is no more required for further investigation; therefore, no useful purpose would be served by keeping the applicant behind the bars for indefinite period.

6. 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.

7. 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.