

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail Application No.581 of 2020

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

For hearing of bail application.

11.06.2020

Mr. Mushtaq Ahmed Jahangiri, advocate for the applicant.
Ms. Rahat Ahsan, Additional P.G.

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NAZAR AKBAR, J.- Through the instant bail application, applicant/ accused Pervaiz Khan son of Zareen Bakht after failing to obtain post arrest bail from Sessions Judge, West Karachi, seeks bail after arrest in FIR No.178/2020, under Sections 6 & 9-C of CNS Act, 1997 registered at Police Station Jackson, Karachi.

2. To be very precise, the facts of the prosecution case as disclosed in the FIR are that on 21.03.2020 at about 0015 hours, police party of P.S Jackson headed by SI Ghulam Asghar Abbasi apprehended the applicant/accused on spy information from Railway Track near Zaitoon Building, Gulshan-e-Sikandarabad, Kemari, Karachi and from personal search of applicant/accused, 2400 grams Charas was recovered, whereas, his other companions escaped from the spot by throwing Charas, which was quantified on spot and the same became 1200 grams. It was also separately sealed under proper memo of arrest and recovery prepared on the spot. Beside one 30 bore pistol along with three live rounds was also recovered from the applicant/accused, therefore, separate FIRs were registered against him.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in this case by the police and alleged recovery of Charas shown to have been effected from his possession is foisted upon him. He further contended that as per contents of computerized FIR two packets Charas weighing **2400 grams** have been shown, while in handwritten FIR in column No.3 of the same FIR the recovery of Charas is shown as **1400 grams** which shows the malafide intention of the police. He further contended that in fact the applicant/accused was taken from his house by the police at night time without any cogent reason and after refusal of illegal gratification, he has falsely been implicated by the police officials in a false case. He lastly prayed that the applicant may be granted bail.

4. Conversely, Learned Additional P.G opposed the grant of bail on the ground that a huge quantity of 2400 grams Charas has been recovered from the applicant, therefore, the applicant does not deserve to be released on bail.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the record. From FIR and record I have noticed that:-

- i. As per contents of computerized FIR the quantity of Charas alleged to have been recovered from the applicant/accused is **2400 grams**, while in column No.3 of handwritten FIR the quantity of Charas is mentioned as **1400 grams**;
- ii. The place of occurrence is situated in a thickly populated area but no private mashir has been associated as eye witness in the FIR;
- iii. Till date even chemical examiner's report has not been obtained by the prosecution;
- iv. It is an admitted position that case has already been challaned and applicant/accused is no more required for investigation;

- v. The case of prosecution rests upon the evidence of police officials, therefore, no question arises for tampering of their evidence at the hands of the applicant/ accused;
- vi. In response to the contention of Addl. P.G that the applicant has record of his involvement in four other case. Learned counsel for the applicant/accused has placed on record certified copies of different orders showing following positions.
 - a. The applicant was falsely implicated in **FIR No.240/2015**, under Section 302/34 PPC and **FIR No.265/2015**, under Section 23(1)A SAA, 2013 registered at P.S Boat Basin and the accused by judgment dated **17.5.2017** was acquitted from the charge by the Court of Anti-Terrorism No.III, Karachi.
 - b. Then police involved the applicant in two other cases under **FIR No.29/2018**, under Section 4/5 Explosive Substance Act, and **FIR No.31/2018** under Section 23-I(A) SAA of 2013 by CTD/OPS Karachi and the applicant has been acquitted on **22.03.2019** on his application under Section 265-K Cr.P.C by the Anti-Terrorism Court No.XII, Karachi.
 - c. Then accused was again arrested in **FIR No.402/2017** under Section 353, 324, 34 PPC by Jackson police and he is on bail in the said case since **16.10.2019** from the Special Judge Anti-Terrorism No.III Karachi.
 - d. Then P.S Boat Basin police registered **FIR No.493/2018** under Section 23(a)A SAA, 2013 and the accused is also on bail in the said case by order dated **20.10.2018**, from the Court of XIIIth Assistant Sessions Judge South, Karachi.
- vii. Learned counsel contended that in all the cases he is not required any more by the police and therefore, this false case lodged against the applicant by Jackson police shows the enmity of police with the applicant.

6. The above grounds are enough for grant bail to the applicant/ accused. Consequently, instant bail application is allowed. The applicant is admitted to bail subject to furnishing solvent surety in the sum of **Rs.100,000/-** (*Rupees One hundred Thousand*) and P.R bond in the like amount to the satisfaction of the 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.

JUDGE

SM / Ayaz Gul