

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.669 of 2020

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

1. For order's on M.A. No.5202/2020 (U/A)
2. For hearing of bail application

Waseem ..Vs... The State

18.06.2020

Malik Muhammad Tariq, advocate for the applicant.
Ms. Amna Ansari, Addl.P.G. Sindh.

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1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.79/2020**, under **Section 6/9/C** of CNS Act, 1997 registered at police station SIU Karachi. Earlier the applicant/accused approached the Sessions Judge, West, Karachi for post arrest bail, which was declined vide order dated **29.04.2020**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. Brief facts of the prosecution case are that on 10.02.2020 at about 1900 hours, police party of PS SIU headed by SI Muhammad Faisal Sheikh, arrested the present applicant/accused at Pareshan Chowk, Main Road Faqeer Colony, Ittehad Town, Karachi and recovered charas weighing 1030 grams as well as crystal weighing 40 grams, which were sealed under memo of arrest and recovery prepared on spot.

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. He further contended that recovery place is away about 25/26 KM but neither complainant informed concerned police station nor associated any official from the illaqa police station. In support of his contention he has placed reliance on the case of *Atteb ur Rehman @ Atti Mochi ..Vs.. The State & others* (2016 SCMR 1424), *Muhammad Usman ..Vs.. The State* (2017 YLR Note 66), *Rizwan ..Vs.. The State* (2020 MLD 59), *Ghulam Nabi ..Vs.. The State (The State)* (2018 P.Cr.L.J 268), *Assif Ali ..Vs..*

The State (2013 YLR 1241) & Syed Hyder Ali Shah ..Vs.. The State (2016 P.Cr. L.J 975).

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

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

- i. At least before this case this is first ever case in which SIU has registered an FIR for an offence which was committed at Pareshan Chowk, Main Road Faqeer Colony, Ittehad Town, Karachi.
- ii. It is strange that the place of incident has been shown 25/26 kilometers away from the police station. According to the learned counsel for the applicant Ittehad Town is situated within the jurisdiction of Mominabad Police station.
- iii. Learned counsel for the applicant states that the place of incident falls within the jurisdiction of Mominabad Police Station and the local police is unaware of the alleged incident.
- iv. The record does not show that any intimation was given to the Mominabad police from whose jurisdiction applicant was arrested.
- v. Besides the above it is not mentioned in the FIR under what circumstances SIU was present on the spot, in the FIR they have not shown any departure from police station.
- vi. Applicant/accused is behind the bars for more than two month 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.

vii. Prosecution is directed to provide to the Court Associate the necessary documents conferring authority on the SIU was established and the very notification of the police station of SIU including the information regarding the power of arresting anybody other than the accused whose case has been assigned to SIU. According to my understanding SIU has limited scope of work to investigate the offence which has been assigned to SIU after the registration of the FIR by the local police or otherwise.

6. In view of the above, the applicant / accused 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.

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