

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-413 of 2020

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DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection  
For hearing of main case.

**10.08.2020.**

Mr. Shahnawaz Brohi, Advocate for applicant.  
Ms. Sobia Bhatti, Assistant Prosecutor General Sindh.

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**RASHIDA ASAD, J:** Through this application, the applicant Asif Ali seeks post-arrest bail in Crime No.08/2020 registered at P.S Qazi Ahmed for offence under section 9(c) of the Control of Narcotics Substances Act, 1997, after having failed to obtain such relief from the trial Court.

2. Brief facts of the case are that on 11.01.2020 at 0730 hours complainant SIP Asad Ali Rajpar along with his subordinate staff arrested the applicant Asif Ali from ongoing road to Peejo link road at Wahid Chowk at 1930 hours and recovered from him black colored shopper containing 10 pieces of charas stamped with golden colour, each piece was of 500 hundred grams and total became 5000 grams and the same was sealed on spot. The chemical report of the recovered substance is in positive. Such F.I.R. was lodged.

3. It is, inter alia, contended by learned Counsel for the applicant that the applicant is innocent and has been falsely implicated in this case by the complainant on the instigation of PC Ashraf Shar as he had exchanged hot words with him over demand of gratification; that despite prior information complainant party did not associate any private person to witness the search and arrest; that no description of property is

mentioned in mashirnama. Lastly he prayed for grant of bail to the applicant. He has relied upon the case of JAMAL-UD-DIN alias ZUBAIR KHAN versus THE STATE (2012 SCMR 573).

4. Learned Assistant Prosecutor General Sindh opposed the grant of bail to the applicant on the ground that applicant was arrested with huge quantity of charas.

5. I have considered submissions of parties and perused material available on record. Allegedly, the present applicant was found in possession of huge quantity of charas weighing 5000 grams, which was sent for chemical examination, and the report of chemical examiner is positive. The contention of learned counsel that no private person has been cited as witness carries no weight as application of section 103 Cr.P.C. has specifically been excluded by virtue of section 25 of the C.N.S. Act 1997, which reads as under:-

**“25.Mode of making searches and arrest.—**The provisions of the Code of Criminal Procedure, 1898, except those of section 103, shall, *mutatis mutandis*, apply to all searches and arrests in so far as they are not inconsistent with the provisions of sections 20, 21, 22 and 23 to all warrants issued and arrests and searches made under these sections.”

6. There is consistent opinion of the apex court that police officials are competent witnesses and their statements cannot be discarded merely for the reason that they belong to the police department. Reference is made to **2001 SCMR 36 and 2010 SCMR 1962**. As regards to the contention raised by learned counsel for the applicant that charas has been foisted upon the applicant by complainant due to vengeance and he has not committed the offence as alleged, it is observed that nothing

placed on record to substantiate such animosity, moreover, such contention requires deeper evidence, which is not permissible at bail stage. Since huge quantity of charas has been recovered from the possession of applicant, prima facie, there appears reasonable grounds for believing that applicant has committed the offence under section 9(c) of the Control of Narcotics Substance Act, 1997, which falls within ambit of prohibitory clause of section 497 Cr.P.C. Therefore, bail application merits no consideration and same was dismissed by my short order dated 10.08.2020 and these are the reasons for the same. **The case law relied upon by the applicant is distinguishable on facts of the case of applicant.** The trial court is directed to proceed with the case expeditiously and conclude the same preferably within two months after receipt of this order and submit compliance report to this court through Additional Registrar.

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 applicant on merits.

JUDGE

Ali haider