

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

Criminal Bail Application No.S-414 of 2020

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 Muhammad seeks post-arrest bail in Crime No.09/2020 registered at P.S Sakrand 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 10.01.2020 at 2000 hours complainant SIP Abdul Latif Shar along with his subordinate staff during patrolling, on spy information, arrested the applicant Muhammad from Sakrand & Nawabshah road near Zero Point and upon his personal search recovered 5155 grams charas, which 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 5155 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