

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

Cr. Bail Application No. S- 308 of 2020

DATED	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objections.
For hearing of main case.

31.08.2020

Mr. Ameer Ali Borhi, Advocate for applicant.

Ms. Rameshan Oad, Asst. Prosecutor General.

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ABDUL MAALIK GADDI, J- Having remained unsuccessful in obtaining his release on bail from the trial Court in Crime No.01 of 2020 registered U/S 9(C) of CNS Act, 1997 at PS Jam Dattar, now the applicant Abdul Majeed s/o Noor Shah Brohi is seeking his release on bail in the said crime through this bail application.

2. The allegation against the applicant is that on 01.01.2020 at 2040 hours, he was apprehended by a police party headed by SIP Nazeer Hussain Rind of PS Jam Dattar on being found in possession of 2000 grams of charas and after fulfilment of all the required formalities the accused and case property were brought at police station hence, this F.I.R.

3. Learned counsel for the applicant argued that the case against the applicant is false, fabricated and based on malafide, as applicant was not present at the alleged place of incident and the alleged charas has been foisted upon the applicant; that police has violated the mandatory provision of Section 103 Cr.P.C as police had an advance information and alleged place of incident was thickly populated area but inspite of the fact complainant did not associate any private person to witness the event; that applicant was arrested on 01.01.2020 but charge has not been framed so far and since then the applicant behind the bars without any reason; that case has been challaned and

applicant is no more required for further investigation therefore, he prays for allowing the instant bail application.

4. Learned A.P.G has opposed this bail application on the ground that applicant / accused was arrested on the spot with 2000 grams of charas in presence of mashirs who have no inimical terms with the applicant and the alleged contraband was returned with confirmation that the same was charas. Besides, according to her the offence under which the applicant is charged falls within the prohibitory clause of Section 497 Cr.P.C, therefore, applicant is not entitled for grant of bail.

5. I have heard the arguments of learned counsel for the parties and perused the police file. It appears from the record that case has already been challaned and applicant is no more required for investigation. It is the case of spy information and the applicant was arrested from Sri Ram An Ido Temple (Mandar), which according to the police papers was thickly populated area, but the complainant did not bother to join any independent person either from the place of information nor from the place of incident to witness the event, therefore, on this ground alone false implication of the applicant cannot be ruled out. It is astonishing to note that the alleged charas was recovered from the applicant on 01.01.2020 however, the same was sent to Chemical Examiner on 20.01.2020 after the delay of twenty (20) days for which no explanation has been furnished. It is also noted that for about last eight (08) months applicant / accused is behind the bars however, trial has not been commenced so far and if the trial Court would proceed the trial with such speed then there is no chance for conclusion of trial in near future. Fair and speedy trial is one of the fundamental rights of the accused. No moral and legal compulsion exists to keep the applicant behind the bars for an indefinite period, which would amount to punish without trial. Reliance in this regard is placed on **2020 P.Cr.L.J 776.**

[Asad Ali v. The Station & another]

6. In the given circumstances, I am of the considered opinion that the applicant has made out his case for further enquiry; therefore, he is admitted to post-arrest bail subject to his furnishing the solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand) and PR bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of.

8. Before parting, I would like to make it clear that if the applicant misuses the concession of bail in any manner, then the trial Court is fully authorised to take every action against the applicant and his surety including cancellation of bail without making any reference to this Court. Office is directed to communicate this order to the trial Court for information and compliance.

JUDGE

****Hafiz Fahad****