

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 804 of 2020

Nabeel Yousuf.....Applicant

Versus

The State.....Respondent

Date of Hearing and Order :- **20.07.2020**

M/s. Nehal Khan Lashari & Ali Murtaza Detho, advocates for applicant
Syed Meeral Shah, APG for the State

O R D E R

FAHIM AHMED SIDDIQUI, J: Applicant Nabeel Yousuf son of Muhammad Yousuf, is seeking bail in a case initiated against him through the lodgment of FIR No. 145 of 2020 at PS Darakhshan, Karachi u/s 6, 9 (c) of Control of Narcotics Substance Act, 1997. The learned Sessions Judge Karachi South has already declined the applicant's bail plea through impugned order dated 14.04.2020.

2. I have heard the arguments advanced from either side and perused the available record in the light of valued submissions made before me. After edifying myself from the arguments advanced and perusal of record, I have observed as under:

- a) The allegations against the applicant are that during routine patrolling, the applicant while sitting on backside of a motorcycle was apprehended by police party from a populated area while his companion who was driving motorcycle succeeded to flee away from the spot, and from possession of applicant, 2400 grams Chars in shape of ICE were recovered.
- b) The applicant was arrested on a beforehand information but no serious effort was made by the raiding police party to associate a private person to act as a marginal witness of the Memo of Recovery and arrest.

- c) Record shows that the time as mentioned in the report No.54 and memo of arrest and recovery is quite different as time of memo of arrest and recovery is before the time of report No.54 which create serious doubt.
- d) Surprisingly, from the contents of the Charge Sheet, it appears that the alleged recovered charas in the shape of ICE was not sent to laboratory for report but the charge sheet was submitted before trial Court which was also accepted.
- e) Now, a question arises; how and why the final charge sheet was filed without confirmation of the status of allegedly recovered narcotics. It creates serious doubt and attracts the plea of animosity with police raised by the learned counsel for the applicant.
- f) Personal liberty is a very precious fundamental right and it should be curtailed only when it becomes imperative according to the peculiar facts and circumstances of the case.

3. Based on the above observation, I am fully convinced that a case of bail has been made out in favour of the applicant. Resultantly, the instant bail application was allowed and the applicant was admitted to bail through a short order of mine dated 20.07.2020, and the above are the reasons of the same.

4. Before parting, I would like to make it clear that if the applicant, after getting bail, remains absent from trial Court and if the trial Court is satisfied that the applicant has become absconder then the trial Court is fully competent to take every action against the said applicant and his surety including cancellation of bail without referring the matter to this Court.

5. It is clarified that all of the above observations are purely tentative and will have no bearing upon the trial of the applicant.

J U D G E