

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1030 of 2020

Abdul Ghaffar.....Applicant

Versus

The State.....Respondent

Date of Hearing and Order :- **29.07.2020**

Mr. Sikandar Ali Shar, advocate for applicant
Mr. Sagheer Abbasi, APG for the State

ORDER

FAHIM AHMED SIDDIQUI, J: Applicant Abdul Ghaffar son of Abdul Sattar is seeking bail involved in FIR No. 243/2020 lodged at PS Malir City, Karachi u/s 6, 9 (c) of Control of Narcotics Substance Act, 1997. The learned trial Court has already declined the applicant's bail plea through impugned order dated 14.07.2020.

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 on a tip-off, the applicant was apprehended by ASI Talib Hussain and from his possession 1100 grams Chars was recovered.
- b) Learned counsel for the applicant submits that ASI is not competent to register the case as provided under Section 21 of the CNS Act.
- c) He also submits that there is no violation of Section 103 CrPC as the applicant was arrested at 1800 hours, but no serious effort was made by the raiding police party to associated a private person to act as a marginal witness of the Memo of Recovery.
- d) He also submits that as per contents of FIR, joint recovery was allegedly made from the applicant and co-

accused and as per settled law, joint recovery is not applicable, hence the case of applicant requires further probe.

- e) 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 is allowed and the applicant Abdul Ghaffar son of Abdul Sattar is admitted to bail subject to furnishing surety in the sum of Rs. 100,000/- (rupees one lac only) and PR bond in the like amount to the entire satisfaction of trial Court.

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