

**-IN THE HIGH COURT OF SINDH AT KARACHI**

Present:

**Mr. Justice Amjad Ali Sahito**

Criminal Bail Application No.1084 of 2020

Applicants : Abdul Qadir S/o Din Muhammad  
Through M/s. Dur Muhammad Shah  
& Salahuddin Chandio, Advocates

Respondent : The State  
Through Ms. Abida Parveen Channar,  
Special Prosecutor ANF

Date of hearing : 07.08.2020

Date of order : 07.08.2020

**ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicants/accused seek post-arrest bail in Crime No.05/2020 registered under Sections 6/9-B CNS Act, 1997 of PS ANF Clifton, Karachi, after his bail plea has been declined by the learned Judge, Special Court-II, (CNS), Karachi vide order dated 11.02.2020.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused mainly contended that applicant/accused is innocent and has falsely been implicated in this case due to enmity with the complainant; that alleged recovery of heroin from the applicant/accused is only 680 grams, which does not fall within prohibitory clause of section 497 Cr.P.C but he was tried under section 6/9(b) of the CNS Act. He lastly prays for grant of post-arrest bail to the applicant/accused. In support

of his contentions, he has relied upon the cases of (1) *Ali Hassan @ Hasan Vs. The State* (2014 YLR 188), (2) *Ateeeb Ur Rehman @ Atti Mochi Vs. The State* (2016 SCMR 1424), (3) *Anwar Zaman Vs. The State* (2017 MLD 32) and (4) *Qamar Zaman Vs. The State* (2017 YLR 874).

4. On the other hand, learned Special Prosecutor ANF has vehemently opposed for grant of bail on the ground that huge quantity is recovered from the applicant/accused as he was going to travel abroad and he is not entitled for concession of post-arrest bail,

5. I have heard the learned counsel for the parties and perused the material available on record. It appears from the record that 680 grams heroin was allegedly recovered from the possession of the applicant/accused and he was liable to be tried under section 9(b) of CNS Act, 1997, hence the case of the applicant/accused becomes one of further enquiry falling within the purview of section 497(2) Cr.P.C. Further, applicant/accused is behind the bar for last seven months and no progress has been made in the trial Court even charge has not been framed yet. The applicant/accused is no more required for further investigation. Reliance is placed in the case of ***Ateeeb Ur Rehman @ Atti Mochi Vs. The State (2016 SCMR 1424)*** wherein the Hon'ble Supreme Court of Pakistan has held that:

***“3.....After hearing the learned counsel for the petitioner, learned Additional Prosecutor General Punjab and perusing the material available on record, we have noticed that when the petitioner was apprehended, 1014 grams of heroin was allegedly recovered from a shopper bag which he was carrying in his right hand. On Court query, the learned Additional Prosecutor General, after going through the recovery memo available on the file of police record, could not show that the***

***recovered heroin was weighed along with the polythene bag or otherwise. If the recovered heroin was weighed along with the polythene bag, prima facie, the weight of the heroin without the polythene bag, if weighed, might have come to 1000 grams or less than that and in that eventuality, the case of the present petitioner would have fallen within the ambit of section 9(b) of the Control of Narcotic Substances Act, 1997. In this backdrop, the case of the petitioner becomes one of further enquiry falling within the purview of section 497(2) of the Code of Criminal Procedure.”***

6. In view of above facts and circumstances and taking the guidelines from the cited case, learned counsel for the applicant/accused has succeeded to make out a case for grant of post-arrest bail. Consequently, the instant bail application is allowed and the applicant/accused named above is enlarged on bail, subject to his furnishing solvent surety in the sum of Rs.100,000/- [Rupees one lac only] with PR bond in the like amount to the satisfaction of learned trial Court.

7. It is made clear that if applicants/accused misuse the concession of bail, learned trial Court would be at liberty to take appropriate action.

JUDGE

Kamran/PA