

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2318 of 2021

Applicant : Imran Haroon s/o Haroon Asghar, through
Mr. Sardar Sheraz Anjum, advocate

Respondent : The State, through Ms. Rahat Ehsan,
Additional Prosecutor General, Sindh, along
with SIP Ghulam Mustafa Shar.

Date of hearing : 02.02.2022
Date of order : 02.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Applicant/accused Imran Haroon s/o Haroon Asghar being abortive to get the relief of post-arrest bail from Model Criminal Trial Court/Additional Sessions Judge-I, Karachi-East in Sessions Case No. 5533 of 2021 vide order, dated 04.11.2021, through instant application seeks the same relief from this Court in Crime/FIR No. 1383 of 2021, registered under sections 6/9(c) of the Control of Narcotic Substances Act at Police Station KIA, Karachi.

2. Allegation against the applicant is that, on 02.10.2021 at 01:55 p.m., he was arrested at Chamra Chowrangi, near PSO Pump, KIA by a police party headed by Inspector Inayatullah Marwat on being recovered 2530 grams of charas lying under driving seat of the Toyota Corolla car, bearing registration No. ALM-746 being driven by him, for which he was booked in the aforesaid F.I.R.

3. The learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case; that the place of incident is located in a highly thickly populated area but police failed to associate any private mashir to witness the alleged recovery, which fact alone creates doubt in a prudent mind about the guilt of the applicant and benefit thereof always goes in favour of the applicant even at bail stage; hence, the applicant is entitled for the concession of bail; that the applicant is not the owner of the alleged car and the owner has not been implicated by the police with commission of alleged offence.

4. On the other hand, learned Addl. PG resists grant of bail to the applicant on the ground that he was arrested on being found in possession of huge quantity of charas; that the applicant has not alleged any enmity with the police officials for implicating him falsely in this case; that as per CPLC record, alleged car, which is a case property, is owned by one Syed Jalil Shah s/o Syed Nawab Shah, who could not be traced out by the police.

5. I have given due consideration to the arguments advanced by both the parties and also perused the material available on record.

6. Perusal of the record shows that the recovered charas weighing 2530 grams was sealed on the spot and sent to Chemical Analyzer for chemical examination. Positive report of Chemical Analyzer brings the case of the applicant within the scope of prohibition, contemplated by Section 51 of the Act. Section 25 of the Act excludes the applicability of Section 103, Cr. P.C.; therefore, association of witnesses from the public is not mandatory in the cases registered under the Act. It has been observed by the Apex Court in the case of *Muhammad Noman Munir v. The State and another (2020 SCMR 1257)*, while rejecting bail plea in a case of 1380 grams of cannabis with 07 grams of heroin, as under;

“Insofar as non-association of a witness from the public is concerned, people collected at the scene, despite request abstained to assist the law and it is so mentioned in the crime report itself, a usual conduct symptomatic of societal apathy towards civic responsibilities. Even otherwise, the members of the contingent being functionaries of the State are second to none in their status, with their acts statutorily presumed, prima facie, as intra vires.

7. Applicant's claim with regard to his false implication is an issue that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. He has not denied possession of the alleged car with him at the time of his arrest. The huge quantity of charas allegedly recovered

from the possession of the applicant can have devastating effect on the society. *Prima facie*, sufficient material is available on record to connect the applicant with the commission of alleged offence and no case for granting bail to him on the ground of alleged benefit of doubt has been made out; hence, instant bail application is rejected, accordingly.

8. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

JUDGE

Athar Zai