

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 195 of 2022

Applicant : Mst. Ayesha d/o. Ismail, through Mr. Ajab Khan
Khattak, advocate

Respondent : The State, through Ms. Rubina Qadir, D.P.G.

Date of hearing : 17.03.2022
Date of order : 17.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Mst. Ayesha d/o Ismail seeks post-arrest bail in Crime No. 1639 of 2021, registered at P.S. Gulistan-e-Jauhar, Karachi under sections 6/9(c) of the Control of Narcotic Substances Act, 1997 (“the Act”) . Her earlier applications for the same relief bearing No. 6171/2021 and 82/2022 were dismissed by the learned Model Criminal Trial Court/ Ist Additional Sessions Judge, Karachi-East, vide orders dated 09.12.2021 and 15.01.2022, respectively.

2. As per F.I.R., on 28.11.2021 at 02:00 a.m., the applicant was arrested by a police party headed by S.I.P. Muhammad Shareef of P.S Gulistan-e-Jauhar, Karachi on being found in possession of 1050 grams of Charas outside House No. 206, Wonder Tower, Benazir Basti, Block-11, Gulistan-e-Jauhar, Karachi, for which she was booked in the aforesaid F.I.R.

3. Learned counsel for the applicant contends that the applicant is innocent and she has falsely been implicated in this case by the police with mala fide intention and ulterior motives due to previous enmity; that nothing was recovered from the possession of the applicant and the alleged recovered charas has been foisted upon her; that the applicant is confined in judicial custody since her day of arrest and police has submitted challan, therefore, her custody is no more required by the police for further investigation; that the alleged recovery is a border line case between clause (b) & (c) of section 9 of the Act; hence, the applicant is entitled for the grant of bail.

4. On the other hand, learned Deputy Prosecutor General resists grant of bail to the applicant on the ground that she was arrested on being found in possession of huge quantity of charas for which capital punishment has been provided under the Act and sufficient evidence is available with the prosecution to connect her with the commission of alleged offence.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that the applicant lady has been arrested by police on being found in possession of 1050 grams of charas wrapped in a shopper. Admittedly, the applicant has no previous record of indulging in any crime. As per report of chemical examiner, the weight of the alleged recovered charas is 1038 grams, which is a border line case between clause (b) & (c) of section 9 of the Act, benefit of which could be extended to the applicant at the bail stage. Accordingly, the instant application is allowed, and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by her solvent surety in the sum of Rs.200,000/- (*Rupees Two Hundred Thousand only*) and P.R. Bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention here that in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving her notice, in accordance with law.

JUDGE

Athar Zai