ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Bail Application No. 822 of 2021

Order with signature of Judge

For hearing of bail application

15th June 2021

Date

Mr. Nisar Ahmed Metlo, advocate for applicant Mr. Faheem Hussain Panhwar DPG

Through instant bail application, applicant Syed Zahoor-ul-Hassan Bukhari seeks post arrest bail in Crime No.70/2021 registered at P.S Memon Goth, Malir, Karachi for offences under Sections 6/9(c) of C.N.S. Act, 1997.

2. Precisely relevant facts are that on 06.03.2021, complainant along with his subordinate staff was on patrolling at about 0100 hours, the police upon suspicion, stopped a motorcycle at link road near Islamabad Hotel, Gadap Town, Karachi, and upon his personal search police recovered charas which became 1505 grams. The accused and case property were brought at Police Station where FIR was registered against the applicant. After usual investigation he was sent up for trial.

3. Learned counsel for the applicant *inter-alia* contends that recovery affected from the applicant is 1505 grams charas; chemical report is delayed; no independent person has been cited as witness; applicant has no previous criminal record; investigation is completed; all the prosecution witnesses are police officials hence there is no question of tampering with the prosecution evidence and the applicant himself is a police official who has been falsely implicated in the present case. He lastly contended that applicant is behind the bar since last more than 3 months.

4. Learned D.P.G. opposed this application on the ground that this is a crime against society, however he concedes that there is no criminal history of applicant.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 1505 grams charas; no private witnesses have been associated though the alleged recovery was effected near the hotel; there is a delay in sending the representative part for chemical examination which (delay) would also be required an explanation by prosecution, hence making a room for further probe. Applicant has been in continuous custody since last more than 03 months and is no more required for any purpose of investigation nor the prosecution has claimed any exceptional circumstance which could justify keeping the applicant behind the bars for an indefinite period. Moreover, prosecution has not claimed that the applicant is previously involved in same nature of the cases. All the prosecution witnesses are police officials hence there is no question of tampering with the evidence. Therefore, keeping *peculiar* facts of instant case, I am of the view that no *useful* purpose is likely to be served with further detention of applicant pending determination of his guilt.

06. Keeping in view the above given circumstances, *prima facie*, applicant has succeeded to make out his case for further inquiry, hence, he is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE

Sajid