

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.890 of 2021

Applicant : Habibullah S/o Faqeer Khan
Through Mr. G.M. Bhutto, Advocate

Respondent : The State
Through Mr. Siraj Ali Khan,
Addl. Prosecutor General, Sindh

Date of hearing : 09.07.2021

Date of order : 09.07.2021

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.412/2021 under Sections 6/9-C CNS Act, 1997 registered at PS SSHIA Karachi, after his bail plea has been declined by the learned 1st Additional Sessions Judge/Model Criminal Trial Court, Malir vide order dated 17.04.2021.

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 has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that the alleged recovery has been foisted upon him, otherwise no evidence is available on record which connects the applicant/accused in the instant case; that no private witness has been associated which is gross violation of Section 103 Cr.P.C.; that the applicant is in jail and he is no more required for investigation, therefore, he is entitled for concession of post-arrest bail. In support of his contentions, learned counsel has relied upon an unreported case passed by this Court in Criminal Bail Application No.1007 of 2020.

4. On the other hand, learned Addl. PG has vehemently opposed for grant of bail on the ground that huge quantity is recovered from the applicant/accused; that there is no enmity between the complainant and the applicant, therefore, he is not entitled for concession of post-arrest bail.

5. I have heard the learned counsel for the parties and have perused the material available on record. It reveals that on the day of incident, police party apprehended the present applicant/accused in suspicious condition and from his personal search, recovered a shopper bag containing chars weighing 1500 grams. Further, the name of the applicant finds place in the FIR with his active role. At bail stage, only tentative assessment is to be made and a deeper appreciation of evidence is not required. Prima facie, sufficient material is available on the record to connect the accused with the commission of the alleged offence. In this context, reliance is placed in the case of **Muhammad Noman Munir v. The State (2020 SCMR 1257)**; wherein Hon'ble Supreme Court of Pakistan has held that:

“3... 1380 grams of cannabis with 07 grams of heroin squarely fall within the mischief of the section ibid that attracts prohibition embodied in section 51 of the Act ibid and as such the argument being presumptuous is beside the mark. 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 civil 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. Refusal by the Courts below being well within the remit of law calls for no interference. Petition fails. Leave declined.”

6. Further, from perusal of record it reveals that the applicant/accused is previously involved in number of cases of similar nature. The reliance is placed in the case of **Shameel Ahmed vs. The State (2009 SCMR 174)**, wherein Hon'ble Supreme Court of Pakistan has held that:

“4.....Petitioner who was involved in three previous cases of similar kind was prima facie found to be

a habitual offender of issuing cheques and defrauding the people. Entering into a compromise, getting acquittal in one case and bail order having been issued in the third case, cannot be simply ignored at the time of grant of bail, because all these go to the root of the case.”

7. In view of the above, learned counsel for the applicant has failed to make out a case for grant of post-arrest bail. Accordingly, the instant Bail Application is **dismissed**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

Kamran/PA