

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 548 of 2022

Applicant : Yaseen s/o. Saleh Muhammad, through
M/s. Muhammad Aslam Roshan, Muhammad Afzal
Roshan and Mujahid Anjum Gondal, advocates

Respondent : The State, through Ms. Abida Parveen Channar,
Special Prosecutor A.N.F.

Date of hearing : 13.05.2022
Date of order : 13.05.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Yaseen s/o Saleh Muhammad seeks post-arrest bail in Crime No. 05/2022, registered at P.S. A.N.F., Muhammad Ali Society, Korangi, Karachi under section 6/9(c), 14, 15, Control of Narcotic Substances Act, 1997 (*“the Act”*). His earlier application for the same relief bearing No. 15/2022 in Special Case No. 27/2022 was dismissed by the learned Special Court No. 1 (C.N.S.), Karachi vide order dated 17.03.2022.

2. Brief facts of the prosecution case are that, on 01.2.2022 at about 2330 hours, complainant/Inspector Abdul Rasheed Dahri of P.S ANF, Muhammad Ali Society, Korangi Karachi, along with his sub-ordinate staff, while on joint checking with Rangers 92-Wing, Karachi, reached Khokharapar No.7 nears Jama Masjid Qadria where they arrested three accused persons travelling in an un-numbered Rickshaw, namely, Nadeem Ali (*driver*) Muhammad Awais and Kamal Asfar (*sitting on rear seat*) on being found in possession of 10 packets of charas and two white colour nylon sacks containing 20/20 packets of charas, total 50 packets, weighing 63.850 kilograms. After completing codal formalities, the said accused persons and case property were brought at P.S. where during course of interrogation accused Muhammad Awais disclosed that his agents, namely, Yaseen and Amanullah were supplying narcotics in the area of Indus Chowrangi Road. On such disclosure, Inspector Abdul Rasheed Dahri, alongwith his subordinate staff and under the supervision of A.D Amir Shahzad, reached the pointed place and arrested present applicant on being found in possession of three packets of charas, each contain 1277 grams (*total 3831 grams*) and one Amanullah on being found, in possession of on packet of chars weighing 1277 grams; out of which 10/10 grams charas from each

packets were taken out for the purpose of chemical examination and, thereafter, accused persons alongwith recovered charas were brought at P.S where instant FIR was lodged against them.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case with mala fide intention and ulterior motives; that nothing was recovered from possession of the applicant and the alleged charas has been foisted upon him; that on 20-01-2022, the applicant along with his friends was apprehended from his house by some police personnel of P.S. New Karachi Industrial Area and on the very next day relatives and friends of the applicant approached to the said police station but a duty officer present there demanded illegal gratification for the release of the applicant and threatened that if the demand was not fulfilled, the applicant would be involved in a false case; whereafter, on 25-01-2022, Habeas Corpus Petition No. 15/2022 was filed, whereupon the learned Sessions Judge, Karachi-Central appointed a raid commissioner for the recovery of detenu but on account of receiving prior information, the police shifted the custody of the applicant to some other place and, thereafter, on 01.02.2022, instant F.I.R. was registered against him; that the family members of applicant also moved applications to the Hon'able Chief Justice of Sindh High Court, IGP Sindh, DG Rangers Sindh & ADD, I.G Karachi; that there are two distinct offence as the recovery has been effected from two different places; however, instead of registering separate F.I.R. for each offence, a single F.I.R. has been registered; hence, entire proceedings and investigation is void *ab initio*; that the applicant is confined in judicial custody since his day of arrest and police has submitted challan; hence, his custody is no more required by the police for further investigation; that the trial of the case is likely to take some time and the applicant cannot be kept behind bars for an indefinite period; hence, he is entitled to bail.

4. On the other hand, learned Special Prosecutor A.N.F. has opposed the grant of bail to applicant on the ground that he alongwith co-accused was arrested on being found in possession of huge quantity of charas, for which capital punishment has been provided under the Act; that the recovered charas was sent for chemical examination on the very next day and the report of chemical examiner is also in positive; that

though single F.I.R. has been registered for the alleged offence; however, memos of arrest and recovery are separate; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence.

5. Heard. Record perused.

6. Perusal of the record shows that the recovered charas weighing 3831 grams was sealed on the spot and sent to Chemical Analyzer for chemical examination on the very next day. Positive report of Chemical Analyzer brings the case of the applicant within the scope of prohibition, contemplated by Section 51 of the Act. Applicant's claims with regard to prior arrest, keeping in wrongful confinement and his false implication in the instant case are the issues that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. As regard the arguments of lodging of one F.I.R. for two distinct offences committed at two different places, it may be observed that the arrest of present applicant was made on the pointation of co-accused Muhammad Awais regarding his presence at the place of arrest with huge quantity of charas, who allegedly worked as agent of the said co-accused; hence, there appears no illegality in lodging of one F.I.R. for the alleged recovery made in sequence. Even otherwise prosecution case cannot be thrown merely on the ground that one F.I.R. was recorded in respect of recoveries of narcotics from two distinct places and/or two different accused persons and/or two different sets of accused persons. 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.

7. 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