

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No. S-339 of 2022

Abdul Sagheer Chandio

Vs

The State

Applicant : Abdul Sagheer Chandio,
Through Mr. Ahmed Bux Abro, Advocate.

The State : Through Mr. Khalil Ahmed Metlo, Deputy Prosecutor
General.

Date of hearing : 01.08.2022.

Date of Decision : 01.08.2022.

ORDER.

ADNAN-UL-KARIM MEMON, J.- Through this bail application, applicant Abdul Sagheer Chandio seeks bail in a case, emanating from FIR No.45 of 2022, registered at Police Station Waggan, under Section 9(C), Control of Narcotic Substances Act, 1997, after his bail plea has been rejected by the learned 1st Additional Sessions Judge, Kamber vide Order dated 28.06.2022.

2. Learned Counsel for the applicant has contended that the applicant is innocent and has been falsely implicated in this case by the police; that despite the recovery shown to have been made at the busy area of Bypass Waggan in the broad hours of the day, no independent person has been cited as witnesses of the alleged recovery and both the mashirs are police officials and subordinates to the complainant; that the alleged contraband has been foisted upon the applicant/accused; that alleged recovery of 1050 grams charas marginally exceeds to the borderline falling between section 9(b) and 9(c) of the CNS Act, 1997; that co-accused Faraz Chandio allegedly arrested along with the applicant and five bottles of wine were shown to have been recovered from him has already been granted bail by the learned trial Court; that the case has already been challaned and the applicant is not required to police for any investigation.

3. Conversely, the learned DPG opposed the bail application, contending that the applicant was arrested by the police with recovery of 1050 grams of charas, therefore, he is not entitled to the concession of post-arrest bail.

4. I have heard learned Counsel for the applicant, learned DPG for the State, and have perused the record.

5. According to the case of the prosecution, on 01.06.2022, at 1.00 p.m. a police posse of Police Station Waggan headed by complainant ASI Mohammad Ali Buriro, during patrolling duty, apprehended two persons and recovered charas weighing 1050 grams in the shape of 7 pieces along with one currency note of Rs.100/- from the possession of present applicant Abdul Sagheer Chandio, while from another person, namely, Faraz Chandio five bottles of wine and cash Rs.50/- were recovered in presence of mashirs PC- Mohammad Hassan and PC- Riaz Hussain under the mashirnama.

6. The material collected by the prosecution prima-face suggests that alleged charas weighing 1050 grams was kept at the police station for about four days, and still a Chemical report has not been collected, which shows a case of further inquiry. besides that the learned trial court has already granted bail to co-accused Faraz vide order dated 15.6.2022, in the said crime on the analogy that offense is not covered by non-prohibitory class and there is infraction of provision of section 103 CrPC and it is yet to be seen during the trial that whether recovery has been effected from the accused and whether he is addicted to drinking. Prima facie this is a simple case of further inquiry as provided under section 497(2) Cr.PC on the aforesaid point as well as in terms of the ratio of the order dated 15.6.2022, passed by the learned trial court, thus rule of consistency is applicable in the present case.

7. It is a well-settled principle of law that deeper appreciation of evidence is not permissible at the stage of bail and the material is to be assessed attentively. From the tentative assessment of the material, available on record as has been discussed above the applicant has made out his case for further inquiry, resultantly the application is, and bail is granted to the applicant in the aforesaid case, subject to his furnishing solvent surety in the sum of Rs.100000/= (one lac) and the PR bond in the like amount to the satisfaction of the trial court.

8. The observations made hereinabove are tentative only to decide the instant bail application, which shall not in any manner influence the learned Trial Court at the time of the final decision of the subject cases.

J U D G E