ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Bail Application No. 259 of 2021.

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Date Order with signature of Judge

For hearing of bail application.

15th April 2021

Mr. Shah Imroz Khan, advocate for the applicant/accused. Ms. Abida Perveen Channer, Special Prosecutor ANF.

By order dated 12.11.2018 passed in Crl. Bail Application No. 218 of 2018 bail application of present applicant was dismissed on merits. At this juncture, it would be conducive to refer the relevant paragraph No.3 of that order, which is that:

Hence, in such matters it has to be seen that case was delayed with the design and with the deliberate intention; learned counsel for the applicant has failed to demonstrate that delay was designed by the prosecution. Moreover, in narcotic case, which is an offence against society, the person involved is considered to be hardened, as such, in my view, he is not entitled to bail in ordinary course. Guidance in this regard may be taken from the decision given by the Hon'ble Supreme Court in the case of Socha Gul v. State (2015 SCMR 1077) wherein it has been observed that "offences punishable under C.N.S Act of 1997 are by its nature heinous and considered to be the offences against the society at large and it is for this reason that the statute itself has provided a note of caution under section 51 of C.N.S Act of 1997 before enlarging an accused on bail in the ordinary course." Besides, huge quantity of heroin was recovered on the pointation of accused from the tyres of tractors and the offence with which the applicant/accused is booked is punishable with death sentence. Thus, tentative assessment of available material prima facie does not lead to a conclusion that there are no reasonable grounds to believe linking of applicant / accused with offence with which he is charged rather there appears grounds to believe otherwise. Admittedly, evidence of Samiullah Shirazi has already been recorded by the trial Court and evidence of other witnesses is yet to be recorded, therefore, mere directions do not entitle him for grant of bail at this stage. Learned counsel for the applicant/accused relied upon the case law which is on different footings and not relevant with the facts and circumstances of the instant case."

Learned counsel for the applicant contends that though two witness have been examined and I.O. is no more alive, yet 07 or 08 witnesses are to be examined but Court is lying vacant. He has referred

judgment of Hon'ble Supreme Court passed in Criminal Petition No. 116-K / 2018 with the plea that on similar grounds bail was granted.

I perused that order of the apex court which can't be applied *ipso fact* as in the present case two witness have been examined; I.O. is no more alive and case can be concluded. With regard to plea that Court is lying vacant learned Special Prosecutor ANF extends her no objection if the case is transferred to the Court No.1. Accordingly, instant bail application is dismissed as same was dismissed on merits and case is transferred to Court No.1 with direction to conclude the trail preferably within four months.

JUDGE

Sajid