

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Crl. Bail Application No. 636 of 2021

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Date	Order with signature of Judge
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For hearing of bail application  
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Date of hearing: 14<sup>th</sup> June 2021

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Mr. Munsif Jan, advocate for applicant.

Mr. Faheem Hussain Panhwar DPG along with SI Sarfraz PS Madina Town, Karachi.

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Through instant bail application, applicant Ali Ahmed seeks post arrest bail in Crime No.71/2021 registered at P.S Madina Colony, Karachi for offences under Sections 6/9(c) of C.N.S. Act, 1997.

2. Precisely relevant facts are that on 18.02.2021 at 0200 hours while patrolling complainant SIP Nasir Ahmed Magsi stopped a car wherein two persons were sitting, upon their personal search recovered 1270 grams of charas from the possession of each accused and also recovered 2300 grams of charas lying under the driving seat of the car. The accused and case property were brought at Police Station where FIR was registered against both the accused. 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 1270 grams charas; that no private person was associated to witness the arrest and recovery; that alleged recovery from the car is a question, which could only be determined at the time of trial; that 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, hence prayed for grant of bail.

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. Heard and perused the record.

6. Admittedly the alleged recovery was effected from thickly populated area but no independent person was associated by the police to witness the arrest and recovery; that perusal of the FIR does not show that in which thing the alleged recovered charas was wrapped? though it was required to be detailed by prosecution so as to avoid any plea of tampering/substitution of recovered articles, this, *prima facie*, aspect would require explanation from prosecution hence the same, till final determination, open the door of further probe; that question regarding conscious knowledge or possession of the said recovered narcotics is yet to be determined at the time of trial in view of judgments reported in **2020 SCMR 356 and 2017 SCMR 531**. The applicant is no more required for investigation, moreover, the case has been challaned and in this backdrop, no useful purpose would be served by keeping the applicant behind the bars. Needless to mention that the bail is not to be withheld as a punishment. Nothing on record that present applicant is previous convict or he has remained indulge in any other identical case in past, therefore, under these circumstances, the ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run.

07. 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.100,000/-(Rupees one lac) and P.R Bond in the like amount to the satisfaction of trial Court.

08. These are the reasons for the short order announced on 14.06.2021. Needless to mention here that any observations hereinabove in this order is tentative in nature and shall not effect the merits of the case.

J U D G E