ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1492 of 2022

Date Order with signature of Judge

For hearing of bail application

26th September 2022

Mr. Saifullah advocate advocate for applicant

Ms. Seema Zaidi, Addl. Prosecutor General Sindh along with Dr. Ashfaq Ali Jumani, Medical Officer, Central Prison, Karahi and SI Muhammad Iqbal

<u>Salahuddin Panhwar, J.</u>- It is alleged that during patrolling, police party headed by SIP Illah Bux of P.S Shahrah-e-Faisal, Karachi, on suspicion, stopped taxi being driven by the applicant and recovered 5780 grams of Charas, hence present case is registered. After having dismissed his post arrest bail by learned trial Court, the applicant has approached this Court for the same relief.

- 2. Learned counsel for the applicant contended that applicant has been falsely implicated in the present case by the police; that charas has been foisted upon him; that no private person has been associated as witness and both the witnesses are police officials; that applicant is heart patient, who has undergone heart surgery in the year 2020 at NICVD and due to his frail health, his further detention in jail, would be detrimental to his life.
- 3. In contra, learned Addl. P.G contended that huge quantity of the charas has been recovered; the offence with which the applicant is charged is affecting the society at large and as per medical report the health condition of the applicant is stable in jail.
- 4. Heard and perused the record.
- 5. With regard to the merits of the case, huge quantity of the charas has been allegedly recovered from the taxi, which was being driven by the applicant; the offence squarely falls within the mischief of the section 9(c) of the CNS Act, 1997 and attracts prohibition contained in section 51 of the Act. With regard to non-association of a witness from the public is concerned, it is usual that people seldom come forward to perform their civic responsibilities, however, the official witnesses are no less credible or trustworthy unless

something contrary is established against them. Applicant's claim of false implication is an issue that cannot be attended without going beyond the barriers of tentative assessment, an exercise prohibited by law.

- 6. With regard to second contention of the learned counsel for the applicant, a requisite condition for grant of bail on medical ground is that the detention of an accused in jail would be hazardous to his life and there must exist strong reasons to believe that despite the availability of modern medical technology, life saving drugs, advance medical treatment and care, accused still requires treatment which is not generally available. However, in the present case Chief Medical officer of the Central Prison was called along with complete medical report of the applicant, which shows that applicant was admitted in Jail on 01.04.2022 and after jail custody, he has been examined thricely by Cardiologist from NICVD, where he was treated well; accordingly, three stents have been fixed, therefore, there is no threat to his life as well as cardiologist are visiting him in routine. Report further shows that the health of the applicant is stable on medications. Thus, it appears that proper treatment is being provided to the applicant in Jail. In the case of Zarin Khan v. The State (1980 SCMR 305), it has been held that when it is established as a matter of fact that an accused has been getting proper treatment in the hospital or in Jail, he would not be entitled for grant of bail. In these circumstances, I do not see any reason to extend him concession of bail on medical ground as well.
- 7. For the foregoing reasons, the instant bail application is dismissed, however, the learned trial Court is directed to conclude the trial preferably within six weeks from the date of receipt of this order.

JUDGE