

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.2017 of 2022
Criminal Bail Application No.2440 of 2022

<i>Date</i>	<i>Order with signature of Judge</i>
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For hearing of Bail Application.

10.01.2023

Syed Nadeem-ul-Haq, Advocate along with Applicant (on bail).
[Criminal Bail Application No. 2017 of 2022]

Mr. Jamroz Khan Afridi, Advocate for the Applicant.
[Criminal Bail Application No. 2440 of 2022]

Mr. Khadim Hussain, Addl. Prosecutor General, Sindh along with SIP
Ayaz Ahmed of P.S Ittehad Town, Karachi.

ORDER

Muhammad Saleem Jessar, J:- Through Criminal Bail Application No.2017 of 2022, applicant Muhammad Younus seeks his admission on pre-arrest bail in Crime No.446/2022 of Police Station Ittehad Town, Karachi, under Section 6-9-C of CNS Act. The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to Addl. Sessions Judge-I, Karachi (West) who after hearing the parties, has turned down his request in terms of his order dated 11.10.2022, whereas, applicant Raees and Ikram seek their release on post arrest bail in the above crime through Criminal Bail Application No.2440 of 2022. They preferred their plea before the trial Court, which was turned down by means of order dated 05.11.2022. Hence all the applicants have approached to this Court through these bail applications.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Syed Nadeem-ul-Haq, learned counsel for applicant Muhammad Younus submits that the allegation against applicant is that he allegedly thrown away a shopper containing 62 grams of Ice; however, no independent person of locality was made witness to the proceedings. He, therefore, submits that the case against applicant Muhammad Younus requires further inquiry and prays for confirmation of bail.

4. Mr. Jamroz Khan Afridi, learned counsel for the applicants Raees and Ikram submits that the case against applicants has been registered by the police due to enmity as according to him before institution of instant case, police had raided on their house and taken away amount of Rs.10,00,000/-, therefore, applicants made demand of said amount which annoyed the complainant; resultantly, they have been arrayed in the instant case and narcotics so recovered from their possession was foisted. He, therefore, prays for grant of bail.

5. On the other hand, learned Addl. P.G, Sindh, appearing for the State, submits that as per new amendment in Section 9(c) of the CNS, the punishment of section 9 has been enhanced, therefore, the case falls within the ambit of prohibitory clause of section 497 Cr.P.C. Hence, he opposes the bail application of applicants Raees and Ikram; however, submits that he has no objection for confirmation of bail of co-accused Muhammad Younus. He further submits that it will be appropriate to issue directions to the trial Court as per FIR there are two material witnesses and the applicants Raees and Ikram may adjudicate the plea they have taken before this Court, before the trial Court at the time of trial.

6. **Heard arguments, perused record.** Admittedly, the allegation against applicant Muhammad Younus is that he allegedly thrown away a shopper containing 62 grams of Ice and did not assault upon the police party whilst he was making his escape good. The police party though was less with weapons, did not chase nor efforts were taken to apprehend the accused Muhammad Younus; hence, in such like a situation, case of applicant Muhammad Younus requires further inquiry. Consequently, Criminal Bail Application No. 2017 of 2022 is hereby allowed; interim bail granted earlier to applicant **Muhammad Younus son of Allah Khan** on 17.10.2022 is hereby confirmed on same terms and conditions.

7. Applicant Muhammad Younus present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

8. As far as, case of applicants Raees and Ikram is concerned, 1330 grams of charas from applicant Raees and 1610 grams of charas from applicant Ikram has been shown to have been recovered from their possession and as per newly added section, the punishment provided by the law falls within the scope of prohibitory clause of section 497 Cr.P.C, therefore, they are not entitled for bail;

however, their counsel submits that the applicants will be satisfied and would not press this application if the directions may be issued to the trial Court to expedite the trial within shortest possible time. Accordingly, Criminal Bail Application No.2440 of 2022 is hereby dismissed. The trial Court is directed to expedite the trial and conclude it within forty five (45) days' time, under intimation to this Court through MIT-II. The prosecution is also directed to procure its witnesses before the trial Court on 11.01.2023 (tomorrow) without fail. In case, prosecution may not procure its witnesses or the trial is not concluded within stipulated time, applicants shall be at liberty to file fresh bail application before the trial Court which shall be decided according to law.

9. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE

Zulfiqar/P.A