

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.S-1255 of 2022
[Ali Dino @ Babu Shaikh versus The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant :	Through Mian Taj Muhammad Keerio advocate
The State :	Through Ms. Safa Hisbani, Assistant P.G Sindh
Date of hearing:	16.01.2023
Date of decision:	16.01.2023

KAUSAR SULTANA HUSSAIN, J: Through captioned bail application, applicant seeks post-arrest bail in Crime No.92 of 2022 registered at P.S Sheikh Bhirkio District Tando Muhammad Khan for offences punishable u/s 9(c) of CNS Act, 1997. Same plea was raised by him before learned trial Court, however, it was turned down vide Order dated 14.11.2022.

2. The allegation against applicant/accused, per FIR is that on 02.11.2022 he was arrested by the police party headed by Complainant/SIP Zameer Ahmed Narejo near the gate of Government Primary School Sheikh Bhirkio and from his possession they recovered 1010 grams of Chars, as such aforesaid FIR was registered against him.

3. It is, inter alia, contended by learned Counsel for the applicant that the applicant is innocent and has been falsely implicated in this case by the police; that the prosecution story is false, fabricated, and highly unbelievable; that place of alleged incident is thickly populated area, however, no private witness has been associated and that the applicant has been booked in present crime due to enmity with influential person over plot. By contending so, he prayed that applicant may be admitted to post arrest bail.

4. Learned Assistant Prosecutor General Sindh opposed the grant of bail to the applicant on the ground that applicant has been arrested at the spot with huge quantity of Charas.

5. I have considered submissions of parties and perused the material available on record. Perusal of record shows that a huge quantity of Charas has been recovered from the possession of applicant/accused. The contention of learned counsel for the applicant that no private person has been associated as witness carries no weight as applicability of section 103 Cr.P.C has specifically been excluded by virtue of

section 25 of the C.N.S. Act 1997. For ease of reference Section 25 *ibid* is reproduced below:

“25.Mode of making searches and arrest.—The provisions of the Code of Criminal Procedure, 1898, except those of section 103, shall, *mutatis mutandis*, apply to all searches and arrests in so far as they are not inconsistent with the provisions of sections 20, 21, 22 and 23 to all warrants issued and arrests and searches made under these sections.”

6. Further there is consistent opinion of the apex Court that police officials are competent witnesses and their statements cannot be discarded merely for the reason that they belong to police Department. Reference in this regard is made to **2001 SCMR 36 and 2010 SCMR 1962**. As far as contention of applicant’s counsel that applicant has been booked in present crime due to enmity with influential persons is concerned, learned counsel has failed to establish said argument by producing any proof, further same requires deeper appreciation at trial, as at bail stage only tentative assessment is to be made.

7. For what has been discussed above, learned counsel for the applicant has failed to establish any enmity with Complainant or witnesses to foist a huge quantity of Charas upon applicant. Moreover, this is a heinous offence, which is considered offence against society. Further huge quantity of charas has been recovered from the possession of applicant and the offence alleged falls within the ambit of prohibitory clause of Section 497 Cr.P.C and also learned counsel for the applicant has failed to urge any ground, which may bring the case of applicant within the ambit of further inquiry. Accordingly, instant bail application merit no consideration, hence same is dismissed. However, the Trial Court is directed to expedite the trial and conclude it preferably within two months after receipt of this Order.

8. Above are the reasons of my short Order of even date, whereby after hearing the parties I have dismissed the instant bail application.

9. Needless to mention here that the observations made hereinabove are tentative in nature and the Trial Court shall not be influenced by this order in any manner whatsoever while deciding the case of applicants on merits.

JUDGE