

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Cr. Bail No.2325/2022**

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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**For hg of bail.**

**13.1.2023**

Mr. Jameel Ahmed Shah, Advocate for applicant.  
Ms. Rahat Ahsan, Addl.PG

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**Omar Sial, J.**: Mehram Mallah has sought post arrest bail in crime number 235 of 2022 registered under section 9(c) of the CNS Act, 1997 at the Thatta police station on 01.10.2022. Earlier, his application seeking bail was dismissed on 15.10.2022 by the learned Special Judge-1, Control of Narcotic Substances in Thatta.

2. A background to the case is that on 01.10.2022, a police party led by S.I. Zafar Ali Zaur was on normal patrol duty when it received spy information that one Mehram Mallah was selling charas openly in front of his house. The police party reached the identified place and apprehended the applicant from whose possession it recovered 1900 grams of charas.

3. Learned counsel has argued that section 103 Cr.P.C. was violated and that in any case the weight of the recovered charas falls on the borderline of an offence under section 9(b) and one under section 9(c) CNS Act, 1997 therefore the applicant is entitled to be admitted to bail. I have heard the counsels. My observations and findings are as follows.

4. The argument of the learned counsel regarding non-compliance of section 103 Cr.P.C. holds little weight. Section 25 of the CNS Act, 1997 excludes the applicability of section 103 Cr.P.C. and the same has been reiterated by the Honorable Supreme Court of Pakistan in a number of cases; are such case being **Tariq Mehmood vs. The State (PLD 2009 SC 39)**.

5. Section 9(b) of the CNS Act, 1997 makes possession of narcotics weighing up to 1 kilogram punishable with a potential sentence of section 7 years whereas section 9(c) carries a potential capital sentence or life imprisonment. The chemical analysis report shows that the net weight of the seized charas was 1896 grams. It can hardly be said that the weight of the seized charas falls on the border line of section 9(b) and section 9(c). The punishment for the offence with which the applicant is charged, therefore, falls within the prohibitory clause of section 497 Cr.P.C.

6. Upon a tentative assessment it appears that the applicant was apprehended red-handed in possession of substances/narcotics prohibited under the CNS Act, 1997. The Chemical Analysers report dated 21.10.2022 has also opined that the substance seized was indeed charas. No ill-will or malafide was argued or is borne out from the record which might have motivated the police to register a false case against the applicant.

7. In view of the above, it appears that the prosecution has sufficient evidence to establish a nexus of the applicant with the crime complained of. Bail application is, therefore, dismissed.

**JUDGE**