

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-1179 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objections.
2. For hearing of main case.

16.12.2022.

Mr. Taimoor Hussain, Advocate for applicant alongwith
applicant (on bail).

Mr. Abdul Waheed Bijarani, Assistant P.G.

ORDER

Muhammad Saleem Jessar, J. - Through this application, applicant Buxial S/o Loung seeks his admission on pre-arrest bail in Crime No.161 of 2022, registered at Police Station Sehwan for offence under Section 9(d) of CNS Act, 1997 after his bail plea before first forum has been declined by the Court of learned Sessions Judge / Special Judge, CNS, Jamshoro vide impugned order dated 31.10.2022 passed in Criminal Bail Application No.897 of 2022.

2. Since the facts of prosecution case are already mentioned in F.I.R as well impugned order passed by learned Sessions Judge / Special Judge (CNS), Jamshoro; therefore, there is no need to reproduce the same in order to save precious time of the Court.

3. Learned Counsel for applicant submits that allegation against application is that he allegedly dropped away contraband viz. 20 KGs of *Bhang*; however, it was not secured from his exclusive possession which my warrant his implication in the case. He further submits that contraband was sent to Laboratory with delay of eight days; besides after furnishing surety before this Court he has surrendered before the trial Court vide Special Case No.39 of 2022 and has not misused concession of bail; hence, case against applicant requires further inquiry.

4. Learned Assistant P.G Sindh appearing for the State opposes the bail application on the ground that huge quantity of intoxicated contraband is shown to have been recovered from appellant; therefore, his case comes within the ambit of prohibitory clause; hence, he is not entitled for extraordinary concession of pre-arrest bail. He; however, could not controvert

the fact that such contraband is not shown to have been recovered from exclusive possession of the applicant.

5. Heard and perused the record.

6. The allegation against the applicant is that he allegedly thrown away contraband at the time of incident; however, it was not recovered from his exclusive possession; therefore, the question of recovery from the applicant whether he was present at the spot and thrown away the contraband or any other person had kept it at the spot wherefrom it was secured, is yet to be responded by the prosecution and is to be determined by the trial Court after recording evidence of the prosecution witnesses, since then the applicant cannot be kept behind the bars. At this juncture, prima facie the case for bail is made out within the ambit of further inquiry in terms of sub-section (2) to Section 497 Cr.P.C.

7. Accordingly and in view of above legal position, instant bail application is hereby allowed. The interim pre-arrest bail already granted to applicant on 04.11.2022 is hereby confirmed on same terms and conditions. The applicant present is directed to continue his appearance before the trial Court till final decision of the main case.

8. It is pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE

Shahid