

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

Cr. Bail Application No. 769 of 2022

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

**22<sup>nd</sup> April, 2022**

Mr. Fazal Haque Khan, Advocate for applicant.  
Mr. Talib Ali Memon, A.P.G.

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Omar Sial, J: Saleem Ali has sought post arrest bail in crime number 417 of 2022 registered under sections 6 and 9(c) of the CNS Act, 1997 at the Sachal police station in Karachi. Earlier, his application seeking bail was dismissed on 11.4.2022 by the learned 1<sup>st</sup> Additional Sessions Judge, Malir.

2. Facts of the case are that a police party led by Inspector Aurangzaib Khattak was on patrol duty when it received spy information that a person is selling charas. The police party reached the identified spot and arrested a person who disclosed his name to be Saleem Ali (applicant). Upon his search, 2100 grams of charas was recovered from him.

3. Learned counsel for the applicant has argued two grounds in support of his bail application (i) that there was a delay in filing the challan by the police, and (ii) that according to the F.I.R. no private person was cited as witness. The learned APG opposed the grant of bail and supported the order impugned.

4. I have heard the learned counsel for the applicant as well as the learned Assistant Prosecutor General. My findings and observations are as follows.

5. Section 25 of the CNS Act 1997 excludes the operation of section 103 Cr.P.C. In a number of cases the Hon'ble Supreme Court has reiterated and re-confirmed this position. The impact of the challan being delayed, if any, on the prosecution case will be decided at trial. Prima facie it appears that the applicant was not prejudiced by the delay nor has any prejudice been argued by the learned counsel.

6. Neither of the grounds urged by the learned counsel entitles the applicant to be admitted to bail. Upon a tentative assessment it appears that the applicant was arrested red-handed with a sizeable quantity of charas. The chemical analysis supports the fact that the recovered substance was charas. The police party did not have any malafide, nor has it been argued by the learned counsel, to falsely implicate the applicant in this case. The quantity of charas seized makes the offence punishable under section 9(c) of the CNS Act 1997, which carries a potential sentence of life imprisonment and thus falls within the prohibitory clause of section 497 Cr.P.C.

7. The bail application is dismissed.

JUDGE

