

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 622 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

22nd April, 2022

Mr. Tahir-ur-Rehman, Advocate for applicant.
Mr. Talib Ali Memon, A.P.G.

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Omar Sial, J: Sher Muhammad has sought post arrest bail in crime number 33 of 2022 registered under sections 6 and 9(c) of the CNS Act, 1997 at the Mehmoodabad police station in Karachi. Earlier, his application seeking bail was dismissed on 22.3.2022 by the learned Sessions Judge, Karachi South.

2. Facts of the case are that the aforementioned F.I.R. was registered on 4.2.2022 by S.I. Ghulam Qadir. He recorded that a police party led by him was on normal patrol duty when it received spy information that a person is carrying charas in a car. The police party reached the pointed place where it stopped a suspicious car which was being driven by the applicant. He was searched and 7 packets of charas containing 7.700 kilograms were recovered from his possession.

3. Learned counsel for the applicant has argued that spy information was received prior to the arrest but no independent witness was cited; that sending of the samples is delayed; that the challan is delayed; that an application was made by the wife of the applicant stating that he has been picked up by the rangers; that the safe custody is doubtful; that the applicant is working in the Encroachment department and recovery of charas has been foisted upon the applicant. Learned counsel has relied upon 2017 SCMR 560.

4. Learned A.P.G. has supported the impugned order and prayed for dismissal of the bail application. He has placed reliance on 2011 SCMR 1046 and PLJ 2009 SC 113.

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

6. Upon a tentative assessment, there appears to be no evidence on record, or as a matter of fact, any cogent reason as to why the police would falsely implicate the applicant in a false case and foist a substantial quantity of charas on him. The authenticity of the application made by the wife of the applicant will have to be determined at trial. Section 25 of the CNS Act 1997 excludes the operation of section 103 Cr.P.C. in cases falling within the ambit of the legislation. The record reflects that the entire property was sent for chemical analysis and the chemical analyst has opined that the seized substance is charas – a narcotic, the possession of which, inter alia, is prohibited under the CNS Act 1997. Prima facie the applicant was caught red handed with a sizeable amount of charas, the possession of which carries a potential capital punishment.

7. In view of the above, the bail application is dismissed.

JUDGE