

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1821 of 2020

Date order with signature of Judge

For hearing of bail application.

Ist. January, 2021

Mr. Muhammad Ather, Advocate for applicant.

Mr. Siraj Ali Khan Chandio, Addl.P.G.

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Omar Sial, J: Mewa Khan seeks post arrest bail in crime number 448 of 2020 registered under sections 6 and 9(c) of the Control of Narcotic Substances Act, 1997 at the Site A police station. Earlier, his application seeking bail was dismissed on 19-10-2020 by the learned 8th Additional Sessions Judge, Karachi West.

2. On 18-9-2020 a police party led by ASI Muhammad Ali was on normal patrol duty when they saw a suspicious rickshaw. The rickshaw was stopped and searched and 12 kg charas was recovered from it.

3. Learned counsel has argued that no private witness was associated; the case has been lodged due to enmity; the applicant was not the owner of the rickshaw; the applicant does not have a crime record and is a 21 year old boy.

4. I have heard the learned counsel for the applicant as well as the learned Addl.P.G. My observations are as follows.

5. None of the grounds raised by the learned counsel would entitle the applicant for the concession of bail. In fact stereo typical grounds have been argued by the learned counsel without much thought given to them. Section 25 of the CNS Act 1997 excludes the applicability of section 103 Cr.P.C. The Honorable Supreme Court in **State vs Abdali Shah (2009 SCMR 291)** has observed that section 21 will not be applicable when an accused is apprehended by police during normal patrol duty and no raid is carried out by the police personnel. Even otherwise, police party could not be expected to go in search of the officer

entitled to arrest the accused being an A.S.I., on his apprehension. At the most this was an irregularity which was curable under S.537, Cr.P.C. Having no crime record or being 21 years of age does not mean that bail will be granted. The ground of enmity has been raised without any reason. It is not denied that the applicant was driving the rickshaw when he was arrested. There was no other person in the rickshaw. In such a situation prima facie it would be he who would be in possession of the narcotics. A sizeable quantity of narcotics has been seized. The entire property was sent for chemical analysis and the report issued by the analyser concludes that the recovered substance was narcotics.

6. Application dismissed.

JUDGE