

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 201 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

03-03-2023

Mr. Farrukh Nawaz Khan, Advocate for applicant.
Ms. Abida Parveen Channer, Spl. Prosecutor, ANF.

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Omar Sial, J: Ahmed Shah has sought post arrest bail in crime number 15 of 2020 registered under sections 6, 9(c), 14 and 15 of the CNS Act, 1997 at the ANF's Gulshan-e-Iqbal police station. Earlier, his application seeking bail was dismissed on 09.01.2023 by the learned Special Court-1 (CNS), Karachi.

2. The prosecution case is that a police party led by S.I. Mohammad Ehsan was on a detection of crime duty when it received information that the applicant is transporting charas on his motorcycle. The police party apprehended the applicant and recovered 4 kgs of charas from him.

3. Learned counsel has argued that the applicant is innocent, the punishment for the offence does not fall within the prohibitory clause of section 497 Cr.P.C. and that co-accused Hafeez has been granted bail. Learned Special Prosecutor, ANF opposed the grant of bail. I have heard the learned counsel for the applicant and the learned Special Prosecutor.

4. Upon a tentative assessment it appears that the applicant was apprehended red-handed in possession of 4 kgs charas, a substance prohibited under the CNS Act, 1997. Samples were taken from each slab of charas and sent for analysis. The laboratory has confirmed that the seized material was indeed charas. Possessing 4 kgs of charas attracts punishment that may be life imprisonment or death this falling within the prohibitory clause of section 497 Cr.P.C. Learned counsel's reliance on the sentencing schedule given in the Murtaza case by the Lahore High Court and re-affirmed by the Supreme Court in the Ameer Zeb case as, the Supreme

Court of Pakistan has already held that the sentencing schedule shall not be applicable at the bail stage. Further, the learned Special Prosecutor has informed me that the sentencing schedule has been suspended by a larger Bench of the Supreme Court. Similarly, learned counsel's argument that the applicant should also be granted bail on grounds of consistency as co-accused Hafeez has been granted bail, also does not have merit. The role assigned to Hafeez was quite different. Hafeez was alleged to be the person who has supplied the narcotics to the applicant whereas it is actual recovery that has taken place from the applicant. Hafeez was implicated in the crime on a statement made by the applicant. The learned counsel has been unable to satisfy me or provide a cogent argument as to what ill-intent or malafide the ANF had to falsely implicate the applicant and foist a substantial quantity of charas on him. As regards the learned counsel's argument that the applicant is innocent, I am sure that the learned trial court will ably determine his culpability or otherwise after it has had the opportunity to review the evidence produced before it; on a tentative assessment however it appears that the applicant does indeed have a case to answer.

5. Bail application stands dismissed.

JUDGE