

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2509 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

22-02-2023

Mr. Hafeezullah Khan, Advocate for applicant.
Mr. Muntazir Mehdi, Addl.P.G.

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Omar Sial, J: Aqeel has sought post arrest bail in crime number 425 of 2022 registered under sections 6 and 9(c) of the CNS Act, 1997 at the Mochko police station. Earlier, his application seeking bail was dismissed on 07.12.2022 by the learned 8th Additional Sessions Judge, Karachi West.

2. A background to the case is that a police party of the Mochko police station led by A.S.I. Tahir Khan was on patrolling duty when it stopped a suspicious rickshaw for checking. The rickshaw was being driven by the applicant and he had 2500 grams of charas lying at his feet in a shopping bag. There were 2 passengers in the rickshaw, one identified as Nabeel whereas the other was Abida. 2500 grams and 2400 grams of charas were also recovered from their possession respectively.

3. I have heard the learned counsel for the applicant who has argued that the applicant was a rickshaw driver and that he was unaware what his passengers carried charas and secondly, the co-accused Abida has been granted bail. The learned Addl.P.G. opposed the grant of bail. My observations and findings are as follows.

4. It appears at this stage that there was a bag containing 2.5 kilograms of charas lying in the feet of the driver of the rickshaw. Prima facie it seems that he was aware of what was in the bag. Be that as it may, whether the bag lying in the driver's feet was a bag that had been brought by the 2 passengers of the rickshaw and that the applicant remained unaware of what the bag contained, was correct, it will have to be proved at trial by the

applicant. Upon a tentative assessment and keeping in view the substantially heavy quantity of charas recovered from the rickshaw I am not inclined to show any leniency to the applicant on his plea that he was not aware that the bag contained charas.

5. As far as the ground of consistency urged by the learned counsel for the applicant is concerned, with much respect I do not see the grant of bail to Abida as a ground to enable the applicant to be admitted to bail. Abida was granted bail solely on the ground that she had a suckling baby whereas that is not the case as far as the applicant is concerned.

6. Upon a tentative assessment it seems that the applicant was apprehended with 2.5 kilograms of a substance that the chemical analyser opined to be charas. The quantity recovered exposes the applicant to a potential capital sentence and thus the offence falls within the prohibitory clause of section 497 Cr.P.C.

7. Bail application stands dismissed.

JUDGE