

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 950 of 2023

Applicant : Muhammad Jibbal s/o. Muhammad Asnad Hussain,
through Mr. Azizullah Kumbhar, Advocate.

Respondent : The State, through Ms. Abida Parveen Channar,
Special Prosecutor A.N.F.

Date of hearing : 06.06.2023
Date of order : 06.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Muhammad Jibbal s/o. Muhammad Asnad Hussain seeks post-arrest bail in Crime No. 09 of 2023 registered at P.S. A.N.F. Gulshan-e-Iqbal, Karachi under sections 6/9(2) of the Control of Narcotic Substances (Amended) Act, 2022 (*the “Act”*). His earlier application for the same relief bearing No. Nil of 2023 was dismissed by the learned Special Court-I (C.N.S.) Karachi, vide order dated 26.04.2023.

2. As per F.I.R., on 10.03.2023 at 0030 hours, the applicant was arrested by S.I.P. Imran Ali of P.S. A.N.F. Gulshan-e-Iqbal, Karachi near Bus Terminal, Hascol Petrol Pump, Service Road, Sohrab Goth, Karachi on being found in possession of narcotic pills “Ecstasy” weighing 40 grams while riding a motorcycle bearing Registration No. KHU-0269, for which the applicant was booked in the aforesaid F.I.R.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case; that the police picked up the applicant and demanded illegal gratification for his release and due to non-payment, he was involved in this false and fabricated case; that the alleged offence falls within section 6/9 (2) of Act 2022, which is punishable up to two years; as such, the same is bailable offence; therefore, the applicant is entitled to the concession of bail.

4. On the other hand, learned Special Prosecutor A.N.F. opposes the grant of bail to applicant on the ground that the applicant is involved in a heinous offence, which is ruining the society; that as per Chemical Examination Report, the recovered medicines contains 3,4- methylenedioxy methamphetamine (*MDMA*), which as per United Nations

Office on drug and crime Manual of 2006, is a psychotropic substances; as such, he is not entitled to the concession of bail.

5. Heard, record perused.

6. Under the Schedule-I to the Act, Methamphetamine is specified at serial No. 47 as '*psychotropic substance*'. Section 9 (2) of the Act provides punishments with imprisonment up to two years for possessing, importing or exporting and trafficking any '*psychotropic substance*' in contravention of sections 6, 7 and 8 of the Act for more than 20 grams and up to 50 grams in quantity.

7. In the instant case, admittedly the quantity of the '*psychotropic substance*' is forty grams. The law is very liberal especially when it is salutary principle of law that in the offences which carry punishment less than three years, the grant of bail is a right and a rule while its refusal is merely an exception. A.N.F. has submitted the challan against the applicant; hence, he is no more required for further investigation. The applicant is not a previously convicted of any offence. Accordingly, the instant application is allowed and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 50,000/- (*Rupees Fifty Thousand only*) and P.R. Bond in the like amount to the satisfaction of the trial Court.

JUDGE

Athar Zai