

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 397 of 2023

Applicants : Rehmatullah s/o. Abdul Kareem & Fida
Muhammad s/o. Muhammad Essa, through
Mr. Shah Imroz Khan, Advocate.

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

Date of hearing : 19.06.2023
Date of order : 19.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicants/accused named-above seek post-arrest bail in Crime No. 07 of 2020, registered at P.S. A.N.F. Gulshan-e-Iqbal, Karachi under sections 6/9(c), 14 & 15 of the Control of Narcotic Substances Act, 1997. Their earlier application for the same relief in Special Case No. 17 of 2020 was heard and dismissed by the learned Special Court-I (C.N.S.) Karachi, vide order dated 08.02.2023.

2. It is alleged that, on 12.04.2020 at 0010 hours, in front of gate of Vegetable Market (سبزی منڈی), Super Highway, Inspector Abdul Rasheed Dahri of P.S., A.N.F. Gulshan-e-Iqbal, Karachi secured 135 kilograms of charas from secret boxes of Mini Truck bearing Registration TKA-377, which was being driven by one Muhammad Jafar s/o Zareef Khan, who was arrested and booked in the aforesaid F.I.R. The said co-accused during interrogation disclosed that applicants and he are involved in drug trafficking through a gang, whose ganglord is one Abdul Wali alias Agha Jan.

3. Learned counsel for the applicants contends that the applicants are innocent and have falsely been implicated in this case; that nothing incriminating has been recovered from possession or pointation of the applicants; that the applicants have been arrested in the alleged offence on the basis of statement made by co-accused in the custody of A.N.F., which is inadmissible under the law; therefore, the applicants are entitled to the concession of bail.

4. On the other hand, learned Special Prosecutor A.N.F. opposes the grant of bail to applicants on the ground that the applicants are involved in a heinous offence; that

the applicants are habitual offenders as they were also involved in Special Case No. 47 of 2020 emanating from Crime/F.I.R. No. 16 of 2020 registered under Section 6/9(c), 14, 15 of Control of Narcotic Substances Act, 1997 at P.S. A.N.F. Clifton, Karachi, wherein they have been convicted by the learned Special Court-II (C.N.S.) Karachi on pleading guilty and sentenced to suffer R.I. for five years and to pay fine of Rs.30,000/- each and in case of default in payment of fine, they shall undergo S.I. for six months; as such, they are not entitled to the concession of bail.

5. Heard, record perused.

6. It appears that neither any incriminating material has been recovered from the possession of the applicants in the instant case nor even their names appear in the F.I.R. and they have been implicated in the instant case on the basis of the statement of arrested co-accused Muhammad Jafar allegedly recorded while in custody of the A.N.F. by the I.O., which statement is inadmissible under section 39 of the Qanun-e-Shahadat Order, 1984. As such, the involvement of the present applicants in the commission of alleged offence requires further inquiry as envisaged under sub-section (2) of Section 497, Cr. P.C.; hence, the instant application is allowed and in result thereof the applicants are admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by them solvent surety in the sum of Rs. 200,000/- (*Rupees Two Hundred Thousand only*) each and P.R. Bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

Cr. Bail Application stands disposed of.

JUDGE