

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 600 of 2023

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**11-04-2023**

Ms. Fozia, Advocate for applicant.

Mr. Talib Ali Memon, A.P.G.

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**Omar Sial, J:** Asif Khan alias Mota has sought bail in crime number 30 of 2023 registered under sections 9(i)(3)(c) of the CNS Act, 1997 at the SIU police station in Karachi. Earlier, his application seeking bail was dismissed on 28.02.2023 by the learned 1<sup>st</sup> Additional Sessions Judge, Karachi West.

2. A background to the case is that the applicant was arrested with 1600 grams of charas in his possession on 18.02.2023. The aforementioned F.I.R. was registered the same day.

3. I have heard the learned counsel for the applicant as well as the learned APG. Learned counsel has argued one ground in support of the bail application, which is that section 103 Cr.P.C. was not followed with when the applicant was arrested. She has also relied on Mohammad Sharif vs The State (2020 MD 723) and Nasir Mahmood vs The State (2021 P.Cr.L.J. 443).

4. As far as the argument regarding non-compliance of section 103 Cr.P.C. is concerned, section 25 of the CNS Act 1997 excludes the operation of section 103 Cr.P.C. in cases falling within the ambit of the legislation. Learned counsel could not find support in any citation of the Supreme Court of Pakistan or a Divisional Bench of this Court which has held otherwise. As regards the cases of a Single Bench cited by the learned counsel, I have the utmost respect for them but find myself nor persuaded by the reasons due to which bail was granted in those cases.

5. Upon a tentative assessment the applicant was apprehended red handed with 1600 grams of a substance, opined by the laboratory to be

charas – a substance the possession of which is prohibited under the CNS Act 1997. The punishment prescribed for such a violation is 9 to 14 years in prison. No malafide on the part of the police is evident on a tentative assessment nor has any been argued by the learned counsel. It appears that the prosecution has sufficient material to prima facie establish a connection of the applicant with the offence with which he is charged.

6. Above are the reasons for the short order dated 07.04.2023.

JUDGE