

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S- 946 of 2023

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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20.10.2023.

Mr. Ghulam Sarwar Baloch, Advocate for applicant.

Ms. Sana Memon, A.P.G for State alongwith SIP Phular
Dino PS Kotri.

ORDER

Mohammad Karim Khan Agha, J.- The applicant Aslam has been booked in Crime No.265/2023 registered at Police Station Kotri in respect of the offence u/s 9-C of the CNS Amendment Act, 2022 and is currently facing trial before the Court of Additional Sessions Judge-I, Kotri. Earlier, the applicant's post arrest bail has been declined by the learned trial Court vide order dated 21.08.2023.

2. The brief facts of the case as per contents of FIR are that during patrolling duty police party of Police Station Kotri headed by complainant ASI Moula Bux Khokhar apprehended the present applicant / accused Aslam Oad r/o Oad Colony Behar Colony Kotri alongwith one shopping bag which was found containing 1422 grams of charas in presence of mashirs HC Asadullah and PC Abdul Hakeem, hence this FIR.

3. I have heard the arguments of the parties and perused the record. Learned counsel for the applicant in support of his contentions placed reliance on the cases reported as **Javed v. The State** (2017 SCMR 531), **Gulzaman v.The State** (1999 SCMR 1271), **Arshad alias Goga v. The State** (2022 P.Cr.L.J 198) and **Muhammad Amir v. The State**

(2022 MLD 1538); whereas learned A.P.G placed reliance on the case of **Noor Khan v. The State** (2021 SCMR 1212).

4. The evidence as per Section 161 Cr.P.C statements of the witnesses is that the applicant was arrested at spot carrying one shopper containing 1422 grams of Charas which is a non-bailable offence u/s 9 (C) of CNS Act, 1997. There was no ill will or enmity between the applicant and police party and as such there was no reason to implicate the applicant in a false case and as such at this point of time there is no reason to disbelieve their evidence. The narcotics recovered from the applicant have resulted in a positive chemical report. The fact that there has been a violation of Section 103 Cr.P.C is not of much importance as under the CNS Act, 1997 the requirement of Section 103 Cr.P.C is excluded. The fact that an officer below the rank of an authorized officer as per CNS Act, 1997 made the arrest and seizure is also not of much importance as it has been settled by now that this is a technicality and is not fatal to the prosecution case as the same can be ignored in the narcotic cases. The offence in respect of narcotics is also a crime against society. It is also noted that Section 51 of CNS Act, 1997 also makes it clear that bail is very restrictive in the matter of CNS which is a most serious crime against society.

5. Based on the above discussion, I find that there is sufficient evidence to connect the applicant with the commission of offence with which he is charged. As such this bail application is dismissed however, the learned trial Court viz. Additional Sessions Judge-I, Kotri is directed to complete the trial within a period of four (04) months of the date of this order. A copy of this order shall be sent to learned Additional Sessions Judge-I, Kotri for compliance.

6. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at trial.

7. The post arrest bail application stands disposed of in the above terms.

JUDGE

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