

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 2061 of 2023**

Applicants : Lal Muhammad and Amanullah
through Mr. Aftab Ahmed Memon, Advocate

Respondent : The State
through Mr. Muhammad Iqbal Awan, Addl.P.G.

Date of hearing : 15th November, 2023

ORDER

Omar Sial, J: Lal Mohammad Brohi and Amanullah Brohi have sought post-arrest bail in crime number 43 of 2023, registered under sections 9(1)(3)(d) of the CNS Act, 1997. The learned Special Judge (CNS) Thatta dismissed their earlier bail plea on 07.08.2023.

2. The F.I.R. mentioned above was registered on 26.06.2023 on the complaint of S.I. Akhtiar Ali Panjwar. During vehicle checking, a Tractor (with a trolley) driven by Lal Mohammad Brohi (the first applicant) and Amanullah Brohi (the second applicant) was stopped and searched. Charas aggregating 8144 grams was recovered from the tractor's toolbox. Both applicants were arrested.

3. Learned counsel has argued that either applicant does not own the tractor; as the charas has not been recovered from the exclusive possession of either applicant, both should be given bail; section 103 Cr.P.C. was not complied with; the recovery has been foisted upon them.

4. The current evidence is that the tractor was being operated (and possibly owned by him) by the applicant, Lal Mohammad and that the charas was also taken out from a toolbox lying in the tractor. Prima facie, the driver was in conscious possession. It is a substantially large quantity of charas that was recovered, and there seems to be no reason why the driver

was not aware of its presence. At this preliminary stage, I am inclined to give the passenger on the tractor, Amanullah Brohi, the benefit of the doubt that he was unaware of the charas hidden away on Lal Brohi's tractor. Section 25 of the CNS Act, 1997 excludes the applicability of section 103 Cr.P.C. in cases falling within the ambit of the narcotics legislation. The police had no apparent malafide in foisting a large quantity of charas, and apart from a blanket argument that the charas had been foisted, no reason was attributed as to why would the police do such a thing. The quantity of charas seized exposes the applicants to a potential life in prison.

5. Given the above, Lal Mohammad Brohi's bail application is dismissed. In contrast, Amanullah Brohi is admitted to post-arrest bail subject to his furnishing a solvent surety of Rs. 100,000 and a P.R. Bond to the satisfaction of the learned trial court.

JUDGE