

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 1106 of 2023**

Applicant : Nawab Khan
through Mr. Waqas Ali Chaudhry, Advocate

Respondent : The State
through Mr. Muhammad Farooq Ali Jatoi,
Special Prosecutor ANF

Date of hearing : 5th December, 2023

ORDER

Omar Sial, J: Nawab Khan has sought post-arrest bail in crime 19 of 2021, registered under sections 6 and 9(c) of the Control of Narcotic Substances Act, 1997, at the ANF's Gulshan-e-Iqbal police station. His earlier bail plea was dismissed on 30.03.2023 by the learned Special Court-II (C.N.S. Karachi).

2. The F.I.R. mentioned above was registered on 07.09.2021 on the complaint of S.I. Mohammad Ahsan, acting on behalf of the ANF. Very briefly, ANF, acting on spy information, stopped and recovered 105 kgs of charas from a truck and some vehicles. Details of the seizure are irrelevant as neither of the four persons in whose possession the charas was recovered was the applicant. The applicant's involvement in the crime arose when one of the arrested persons, Rab Nawaz, disclosed during interrogation that the charas he had (48 kgs) given to him by Qurban Ali and which had to be delivered to the applicant, for which the payment had been made.

3. Learned counsel has argued that the applicant is a poor person with no previous crime record, and the only evidence against him is the statement of the co-accused Rab Nawaz. Apart from this, learned counsel argued that the F.I.R. was registered after a delay of six hours, and one co-accused by the name of Ilyas has been granted bail; that's why the applicant should also be granted bail. The learned Special Prosecutor, ANF,

vehemently opposed the grant of bail. My observations and findings are as follows.

4. Learned counsel is correct to the extent that Rab Nawaz disclosed the applicant's name as the person to whom delivery was to be made. In typical crimes, courts have tended to give some concession in situations when the name of an accused has been disclosed by a co-accused. In my opinion, though, cases of drug smuggling and transportation, especially when significant quantities of narcotics are involved, have to be dealt with at a different pedestal. Conventional evidence in such crimes is rare and often not present. The crime occurs through an organised network, with each cog in the wheel playing its part. Looked at in isolation, apart from the person caught in possession of the narcotics would be prosecuted whereas the suppliers, financiers, and purchasers, of the drugs would go scot-free. Simply because Rab Nawaz has named the applicant would not ipso facto mean that the applicant does not have a case to answer. His role can be determined only after the learned trial court has had an opportunity to holistically look at the evidence before it. Any concession that the Court could have considered for the applicant is significantly impacted by the fact that the applicant has not only a history of past involvement in crimes under the narcotics legislation but also a conviction against him in a case arising out of F.I.R. No. 18 of 2022 and F.I.R. No. 06 of 2017. It seems upon a tentative assessment that the applicant is well-known in the world of narcotics. There is all likelihood that the crime may be repeated or the applicant absconds if he is bailed out at this stage, pending adjudication of the case.

5. Learned counsel has not attempted to show why Rab Nawaz or the ANF sleuths would falsely involve him in this case. As regards the counsel's argument regarding consistency, the same has been adequately addressed by the learned trial court in its order, with which reasoning I agree.

6. Given the above, the bail application is dismissed.

JUDGE