

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 870 of 2024
(Muhammad Usman v. The State)

Date	Order with signature of Judges
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For hearing of bail application

16.05.2024

Mr. Abdul Aleem Kalhoro, advocate for the applicant
Mr. Mumtaz Ali Shah, Assistant Prosecutor General for the State

It is alleged that the applicant was found in possession of 304 kilograms of heroin powder, 500 kilograms of charas and 38 kilograms of white chemical powder by the police party of PS Excise district West led by Inspector Fayaz Hussain Shah, for which the present case was registered.

The applicant having been refused post-arrest bail by the learned 1st Additional Sessions Judge/MCTC Special Judge (CNS), Karachi, West, has sought the same from this Court by way of instant bail application u/s 497 Cr.P.C.

It is contended by learned counsel for the applicant that the applicant is innocent and has been involved in this case falsely by the Excise Police by substituting him with the real culprit; there is no independent witness to the incident and co-accused Muzaffar Hussain and Muhammad Rizwan have already been admitted to bail by the learned trial Court, therefore, the applicant is entitled to be released on bail on point of further inquiry and consistency, which is opposed by learned Assistant P.G for the State by contending that the case of the applicant is distinguishable to the co-accused who have already been admitted to bail and the offence alleged against him is affecting the society at large.

Heard arguments and perused the record.

The applicant is named in FIR with the specific allegation that on arrest from his house has been secured a huge quantity of contraband substance as detailed above with a positive report from the Chemical Examiner. In that situation, it would be premature to say that he being innocent has been involved in this case falsely by the Excise police officials by substituting him with a real culprit. The substitution of the real culprit with an innocent one is a rare phenomenon. Of course, there is no independent witness to the incident, but there could be no denial to the fact that the officials are as good witnesses as others until and unless some malafide is alleged against them, which is lacking in the present case; they even otherwise could not be disbelieved by this Court at this stage. The case of the co-accused who have already been admitted to bail is distinguishable from that of the applicant. The applicant was arrested at the spot and it was he who disclosed the names of the co-accused. The offence which the applicant is alleged to have committed is affecting society at large. There appear reasonable grounds to believe that the applicant is guilty of the offence, with which he is charged; thus, no case for his release on bail on point of further inquiry is made out.

Consequent to the above discussion, the instant bail application is dismissed with direction to the learned trial Court to dispose of the very case against the applicant within three months.

J U D G E