

# THE HIGH COURT OF SINDH KARACHI

## Criminal Bail Application No. 1002 of 2024

### For hearing of Bail Application.

Applicant/ Accused : Munsif Khan son of Naras Wali through Mr. Shah Imroze Khan, Advocate.

The State : Through Mr. Haad, Special Prosecutor ANF a/w I.O. namely, Atta Ullah, who is present in Court.

Date of hearing : 02-09-2024

Date of order : 02-09-2024

FIR No. 20/2022  
u/s: 6, 9(c), 14, 15 CNSA, 1997  
P.S. ANF, Gulshan-e-Iqbal

### ORDER

**Adnan Iqbal Chaudhry J.** - This is the third bail application filed by the Applicant before this Court, this time seeking bail on the ground of statutory period of delay provided by the third proviso to section 497(1) CrPC.

2. Heard learned counsel for the Applicant and the Special Prosecutor ANF.

3. The case of *State v. Mobin Khan* (2000 SCMR 299) had observed that the third proviso to section 497(1) CrPC is not available where the offence alleged under the CNS Act may attract punishment of death. Learned counsel for the Applicant appears to be correct to the extent that given the quantum of narcotic allegedly recovered from the Applicant and the case of *Khuda Bakhsh v. The State* (2015 SCMR 735), punishment for death is not a possible outcome. However, neither learned counsel for the Applicant nor the Special Prosecutor ANF were able to say that the third proviso to section 497(1) CrPC can be invoked as a matter of right when section 51 of the CNS Act does not stipulate so. In fact, it was held in the case of *Anti-Narcotic Force v. Qasim Ali* (2019 SCMR 1928) that section 51 of the CNS Act ousts the application of the provisions of section 497 CrPC.

4. Learned counsel for the Applicant submits that nevertheless inordinate delay in the conclusion of trial can be considered as a ground for bail under section 51 of the CNS Act independent of the provisions of section 497 CrPC. While that submission is not without force, the diary of the trial Court placed on the record reflects that the delay in this case has not been solely on account of the prosecution or vacancy of the Court, but that the counsel for the Applicant was equally responsible as he remained absent on at least 19 dates, and then also consumed time in repeating bail applications. At this juncture, learned Special Prosecutor ANF states that only three prosecution witnesses remain to be examined.

5. In view of the foregoing, this bail application is dismissed. However, the trial Court shall make an effort to conclude the trial within two [02] months.

SHABAN\*

**JUDGE**