

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Appln. No.S-1379 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections.
2. For hearing of main case.

Applicant : Qurban Ali son of Zaman Khan,
Through Mr. Toseef Ahmed Chandio,
Advocate.

The State : Through Mr. Irfan Ali Talpur,
Assistant P.G.

Date of hearing : 03.02.2025.

Date of Order : 07.02.2025.

ORDER

ABDUL HAMID BHURGRI, J:- Being un-successful in obtaining his release on bail from the Trial Court in Crime No.14 of 2024 registered at P.S Excise & Narcotics, Tando Allahyar for offence under Section 9(5)(c) of Control of Narcotic Substances Act, 1997, the above named applicant is seeking his release on bail through the instant bail application.

2. The allegations against the applicant are that on 17.11.2024 at about 1630 hours, the complainant Inspector Allan Khan Abbasi, Incharge Excise & Taxation Cell, Tando Allahyar alongwith his subordinate staff during patrolling at Sarfraz Wah Mori apprehended the present applicant and from his possession 1300 grams of opium were recovered, for which instant case was registered.

3. Learned Counsel for the applicant has contended that the applicant is innocent and has been implicated in the case by the police with malafide intention and ulterior motives. He further contended that the place of arrest of the applicant is populated area but the Police has failed to associate any private witness as mashir to witness the recovery proceedings despite having prior information, which is clear violation of

Section 103 of Cr.P.C. Learned Counsel also contended that the prosecution story is false, fabricated and highly unbelievable and is without any independent or corroborative piece of evidence and therefore the case of the applicant is of further inquiry; hence, the concession of bail may be extended to him as according to learned Counsel the false implication of the applicant cannot be ruled out. He further argued that complainant of the case is himself I.O of the case who has investigated the matter which is against the natural justice. He has lastly prayed that applicant may be granted bail for which he is ready to furnish required surety. Learned Counsel in support of his arguments has relied upon the case of ZAHID SARFRAZ GILL v. The State (2024 SCMR 934).

4. Learned APG appearing for the State has contended that applicant is caught hold red handed by the police and from his exclusive possession the police party has recovered 1300 grams of opium which is a huge quantity and the crime is heinous against the public at large. He has opposed the bail application but he is not able to controvert the above legal and factual position.

5. I have heard learned Counsel for the applicant as well as learned APG and perused the record available before me. As per prosecution version, the applicant was caught red handed on 17.11.2024 alongwith co-accused while they were coming from Bukera Shareef on Motorcycle and from his possession 1300 grams of opium were recovered in presence of Mashirs. It transpires from the record that the area from which the applicant was apprehended is a thickly populated area but the Police officials did not try to call any independent and respectable person of the area to witness the recovery proceedings. It also appears that Inspector Allan Abbasi, Excise & Taxation Officer is the complainant of the case and he himself has investigated the matter which makes the prosecution story being doubtful. No doubt the police officials are good witnesses but when a person is prosecuted for having possession of the contraband their credibility and truthfulness must be evaluated which could only be ascertained at the trial by adducing their

evidence, till then the applicant cannot be left behind the bars. It is also pointed out that the applicant was coming on Motorcycle alongwith co-accused namely Waqar Rajput but surprisingly the police has only captured him and co-accused succeeded in running away from the spot in front of their eyes which quite makes the case to be one of further inquiry. It is well settled principle of law that every accused would be presumed to be innocent until and unless he may be proved guilty of alleged offence and law cannot be stretched upon in favour of the prosecution particularly at bail stage. Applicant is behind the bars since his arrest and no legal or technical purpose would be served by keeping him in custody for an indefinite period as premeditated punishment coupled with the fact that no criminal record is brought on record against him.

6. In view of the above, the applicant is admitted on post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and P.R Bond in the like amount to the satisfaction of the Trial Court.

7. Needless to mention that the observations made hereinabove are tentative in nature and shall not in any way prejudice the merits of the case at the trial.

Bail application stands disposed of.

JUDGE