

THE HIGH COURT OF SINDH KARACHI

**Cr. Bail Application No.2472 of 2024**

Applicant : Afaq Ahmed son of Ashfaq Ahmed  
through Mr. Muhammad Ibrar Arain,  
Advocate.

The State/Complainant : The State through Ms. Rubina Qadir,  
Deputy Prosecutor-General, Sindh.  
I.O. A.S.I. Muhammad Younus, P.S.

Date of hearing : 19-12-2024

Date of order : 13-02-2025

FIR No.109/2024  
u/s: 9(i)3(C), CNS Act, 1997  
P.S. SIU District Central, Karachi

**ORDER**

**Jawad Akbar Sarwana J.** - As per the FIR, on 02-06-2024, the ASI, along with other police officers, was on patrol on a police mobile, keeping a lookout for control of narcotics substances when he saw the accused on a motorbike and stopped and searched him. As a result of such a search, he found a single packet of 1250 grams of charas, which were sealed and case U/s9-(i)(3)(c) CNS (amended 2022) was registered against him. The entire quantity recovered was sent for chemical examination on 03.06.2024. As per the Interim Charge Sheet No.Nil/2024 dated 04-07-2024, the chemical report for charas was still awaited as of the said date, i.e. 04-07-2024, and is also not available in this bail application file as of the date of hearing 19-12-2024.

2. The 1st Additional Sessions Judge, Karachi Central in Sp. Bail Application No.268/2024 denied the Applicant bail on 21-06-2024. This is the Applicant's second bail application.

3. Per learned counsel for the Applicant, the FIR is false; the Police foisted the charas on the Applicant because of an earlier verbal clash between the Applicant and Police, which allegedly took place outside the Courtroom of Judicial Magistrate XV Karachi West, whereafter he was allegedly picked up on the same day by Police.

4. Heard the learned counsel for the Applicant and the Deputy P.G.
5. According to the Interim Challan, available on record, almost 11 FIRs appear to be registered against the accused. Ten (10) out of the 11 FIRs mentioned therein indicate that they were registered in Baldia Town, Karachi, which is an area under Karachi West. Almost nine (9) months later, the current status of these FIRs is unknown, except it may be safely assumed that they are/were likely filed before any of the JM (West) Karachi. Learned counsel submitted that the instant FIR is also in retaliation to some verbal exchange of words between the said complaint and Police outside the Courtroom of the JM (West) Karachi. The judicial record cross-referenced in the bail refusal Order of the 1<sup>st</sup> Additional Sessions Judge records that while "the FIR was registered against him on 02.06.2024, whereas accused produced the CTC of diary sheet dated 31.05.2024," suggesting that the verbal exchange and registration of FIR did not take place on the same date, i.e. 02-06-2024, hence there is no nexus between the two events.
6. Based on the above information, it is admitted that the Accused was present in the Courtroom of JM (West) on Friday, 31<sup>st</sup> March and was implicated on Sunday, 2<sup>nd</sup> June 2024. Based on this data, it is arguable that whatever alleged hot words were exchanged in the City Court between the applicant/accused and the Police, within 48 hours, he was booked in yet another FIR, adding to his list of eleven (11) mentioned in the interim charge sheet, but this time to face trial in yet another different courtroom.
7. While I am not inclined to express an opinion on the said issue at the bail stage lest any observation prejudices the trial, the above facts suggest, at the very least, that the Applicant/accused defence, that before the instant FIR, he was physically present in the city court, and the police officers (albeit from a different police station or the Baldia Town P.S) may well have been present in the court too and the possibility of a verbal altercation in the Court premises on 31<sup>st</sup> May 2024 culminated in lodging of the FIR on 2<sup>nd</sup> June 2024 may not be entirely ruled out. Therefore, the

Applicant's version that he was booked in the FIR in retaliation and the charas foisted on him is not implausible. The FIR is utterly silent as to the persons who witnessed the search of the Applicant and the recovery of charas from him. Even if those were police officers, the FIR does not disclose their names.<sup>1</sup> The Report of the Chemical Examiner was also not available (neither filed) with the Interim Challan until almost one (1) month after the incident, and there is neither any update on the investigation nor any news of the final charge sheet along with the Chemical Report of the contraband available to this bench, as none is submitted by DPG either, so far, despite of several dates of hearing.

8. In view of the foregoing and available case law,<sup>2</sup> as well as the absence of a positive forensic report that was not available at the stage of the interim charge-sheet, when it was prepared, a month later, and is still not filed, these facts lend some support that the case against the Applicant is one of further inquiry and charge may well be false or groundless during trial.<sup>3</sup> In the circumstances, this is a fit case for grant of bail within the meaning of sub-section (2) of section 51 of the CNS Act, 1997. Non-attendance of the trial is remote. Therefore, bail is granted to the Applicant subject to furnishing solvent surety in the sum of Rs. 400,000/- [Rupees Four Hundred Thousand Only] alongwith P.R. Bond in like amount to the satisfaction of the trial court.

Needless to state, that the observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

**JUDGE**

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<sup>1</sup> This turns up in the interim charge-sheet.

<sup>2</sup> Zahid Sarfaraz Gul v. The State (2024 SCMR 934), Khuda Bakhsh v. The State (2015 SCMR 735), and Gul Zaman v. The State (1999 SCMR 1271).

<sup>3</sup> Fareed Ahmed v. The State (2023 PCrLJ 583), Muhammad Ramza v. The State (2023 MLD 583)