

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.645 of 2025

Applicant : Mst. Ishrat Fatima
through Mr. Mazhar Ali, Advocate

Respondent : The State
through Mr. Fayyaz Hussain Saabki, APG.

Date of hearing : 25.03.2025.

Date of order : 05.04.2025.

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Mst. Ishrat Fatima seeks post-arrest bail in a case bearing crime No. 1931/2024, offence u/s 6/9(1)3(d) of CNS (Amendment) Act, 2022, following the dismissal of his post-arrest bail application by the learned Model Criminal Trial Court/Additional Sessions Judge-III Malir Karachi vide order dated: 27.01.2025.

2. The case originated from an FIR lodged by SIP Javed Arain of Police Station Sachal East Karachi. The FIR detailed that during a routine patrol, confidential information was received indicating that a male and female were present at Quetta Bus Adda, allegedly for the purpose of supplying narcotics. The informant further disclosed that the suspects possessed a significant quantity of charas and were awaiting someone. Acting on this intelligence, LPC Sadia Haneef was summoned to the location. The police successfully apprehended the female suspect, Ishrat Fatima, while the male suspect managed to flee after discarding a shopper. Upon interrogation, Ishrat Fatima identified herself as the wife of Munawar alias Sheena. From her possession, a shopper containing three packets of charas weighing 5800 grams was recovered. She further disclosed the identity of the absconding suspect as Sadar Muhammad, from whom 4800 grams of charas were recovered from the discarded shopper.

3. Learned counsel for applicant contended that applicant is an innocent lady and housewife and she is falsely implicated in this case. He

added, in fact the father of present lady filed criminal petition u/s 22-A Cr.P.C. bearing No. 3892/2024 against illegal acts and omissions of police, which was disposed of on 22.11.2024; he further argued that due to the above grudge and enmity of police with father of present lady, she was picked up by police on 18.11.2024; he further argued that one Mst. Roshan Jan filed a HCP No.528/2024 and commissioner was appointed for raid at P.S. Sachal on 20-11-2024 and when commissioner made surprising raid then police showed the instant FIR; he further argued that nothing had been recovered from the possession of applicant, but she was falsely implicated in this case; he further emphasis on her minor children being dependent on her and suffering due to her detention. Reliance was placed on various case laws including *2013 YLR 913*, *2013 P.Cr.L.J 1277*, *2024 SCMR 934*, *2024 P.Cr.L.J 370* and *2024 MLD 843*.

4. Conversely, learned APG for the State opposed bail application, asserting that the applicant is prima facie involved in an offense involving a substantial quantity of charas. It was argued that allegations of enmity were unsubstantiated by evidence or record and neither Muhammad Zareen nor any other individual approached investigative officers or this court to support such claims. Furthermore, it was contended that provisions under Section 103 Cr.P.C are excluded in narcotics cases by virtue of Section 25 of CNS Act; thus discrepancies in prosecution's case can only be determined during trial proceedings.

5. The FIR explicitly states that the accused was found in possession of 5800 grams of Charas. The learned counsel for the applicant contended that the father of the accused filed a Criminal Petition under Section 22-A of the Cr.P.C. against certain police officials, and due to such animosity, the applicant was allegedly implicated in this case. I do not agree with the submission made by the learned counsel for the applicant. In a prior bail application filed before the Court of Additional Sessions Judge-III, Malir, the accused had contended that she was employed at the residence of one Muhammad Zareen, who had filed a petition, and that the police, assuming the applicant to be the daughter of Muhammad Zareen, involved her in this case. However, in the present proceedings, the learned counsel for the applicant has taken the position that the applicant's father is Muhammad Zareen. It is noteworthy that Muhammad Zareen has not recorded his statement under Section 161 Cr.P.C. before the concerned investigating officer, nor has any complaint been filed after the registration

of the FIR. Therefore, the contention put forward by the learned counsel for the applicant is not tenable. Statements recorded under Section 161 Cr.P.C. corroborate the recovery and possession as stated in the FIR, which constitutes prima facie evidence that strongly supports the prosecution's case. The defense argument regarding false implication due to animosity lacks substantiation and fails to establish any link between Muhammad Zareen and this case at this stage; such a defense can only be evaluated during trial. Concerning the non-association of private witnesses during the arrest and recovery proceedings, it is important to note that Section 25 of the CNS Act excludes the applicability of Section 103 Cr.P.C. in narcotics cases. Police officials are presumed to be credible witnesses unless there is evidence indicating enmity or bias against them. Furthermore, the alleged recovery of 5800 grams of Charas falls within the prohibitory clause of Section 497(1) Cr.P.C., which provides for a punishment of up to 20 years. Section 51 of the CNS Act; impose stringent conditions for granting bail in narcotics cases unless exceptional circumstances are demonstrated. No such grounds exist in the present case. The case laws cited by the learned counsel for the applicant do not align with the specific facts and circumstances of the present case.

6. Given the above, and considering the societal impact posed by narcotics offenses, no case for bail is made out at this stage. The bail application is, therefore, dismissed for lack of merit, with the caveat that these findings are tentative and shall not prejudice the trial proceedings.

J U D G E

Shahbaz/PA