

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.270/2015

Applicant: Abdullah @ Abdul through Mr.
Muhammad Akbar Awan advocate

Respondent The State through Mr. Abdullah Rajput,
APG.

Date of hearing: 27-04-2015

Date of order: 27-04-2015

ORDER

ABDUL MAALIK GADDI, J:-Through this criminal Bail Application, the applicant Abdullah @ Abdal seeks post arrest bail in Crime No.297/2014 registered under Section 6-9 CNS Act, 1997 with Police Station Kalakot, Karachi. His similar request was declined by the trial Court vide impugned order dated 19.02.2015.

2. Case of the prosecution is that applicant was found in possession of 1250 grams Charas be a police party headed by ASI Mian Shoukat Hussain of Police Station Kalakot, who was patrolling alongwith his subordinate staff and finding the applicant in suspicion condition apprehended him and recovered aforesaid contraband.

3. Learned counsel for applicant mainly contended that the alleged offence would not fall within the prohibitory clause of Section 497 Cr.P.C. and Section 52 of Control of Narcotic Substances Act, 1997, keeping in view the line drawn in the case of *Ghulam Murtaza V/S The State* PLD 2009 Lahore 362. Learned counsel further contended that the Charas has been foisted upon the applicant by the police. He next contended that there is no likely hood of his absconding and tampering with the prosecution evidence. He lastly submitted that the case stands challaned and applicant is no more required by police for

further investigation. He further contended that the accused is behind the bars for the last seven months but the trial has not yet been commenced, therefore, he has prayed for bail while relying on the case of *Ghulam Murtaza V/S The State* PLD 2009 Lahore 362, *Jameel Khan V/S The State* 2003 P.Cr.L.J 1139 and *Ali Hassan V/S The State* SBLR 2012 Sindh 863.

4. Mr. Abdullah Rajput, learned APG half-heartedly opposed the grant of bail to the applicant.

5. I have considered the above submissions and also perused the record.

6. Perusal of record shows that 1250 grams charas was allegedly recovered from the applicant and entire quantity of 1250 grams was sealed and sent for chemical examination. If the criterion with regard to the quantum of sentence as laid down in the case of *Ghulam Murtaza V. The State*, reported in PLD 2009 Lahore 362 (supra) is considered, which determines the sentence for recovery of Charas upto two kilograms to the extent of 04 years, 06 months and fine of Rs.20,000/-, the instant case certainly would not fall within the prohibitory clause of Section 497 Cr.P.C. or Section 52 of the Control of Narcotic Substances Act, 1997. Moreover, the criteria of sentence laid down in Ghulam Murtaza's case was approved by the Hon'ble Supreme Court in the case of *Ameer Zeb V. The State*, reported in PLD 2012 SC 380.

7. In view of the above facts and circumstances, in my opinion the case of applicant does not fall within prohibitory clause of Section 497 Cr.P.C. or Section 52 of the Control of Narcotic Substances Act, 1997. As per record, applicant is behind the Bars for last seven months and even the trial has not commenced. Accordingly, the instant bail application is allowed. The applicant is directed to be released on bail subject to his furnishing surety in the sum of Rs.100,000/- (Rupees One lac) and P.R. bond in the like amount to the satisfaction of the Trial Court.

8. This criminal Bail Application was allowed today by short order and these are the detailed reasons for the same.

JUDGE