

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2843 of 2024

Applicant : Imdad Ullah son of Khan Bad Shah
through Mr. Ajab Khan Khattak Advocate

Respondent : The State
through Mr. Sarfaraz Ali Mangi, Special
Prosecutor ANF.

Date of short order : 24.03.2025

Date of reasons : 26.03.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Imdad Ullah seeks post arrest bail in Crime No.37 of 2024 registered at P.S ANF Gulshan-e-Iqbal Karachi for offence under Section 9(3)(c) of CNS, Act, 1997. Such plea of the applicant was turned down by the learned Judge/Special Court- I (CNS) Karachi vide order dated 25.11.2024.

2. According to the case of prosecution, on 21.08. 2024, at about 2120 hours, on spy tip through superior officers P.S ANF Gulshan-e-Iqbal Karachi intercepted applicant at Pakistan Hussain Hotel, Northern bypass, Gadap Town, Karachi and recovered a packet of charas wrapped with yellow tape solution weighing 700 grams from the seat of water tanker bearing registration No.TAB-738, for which such FIR was registered on behalf of the State.

3. Learned counsel for the applicant urged that the applicant has been falsely implicated in this case by the police by foisting charas against him; that despite information received in advance no independent private person was picked or associated by the police from way or the place of incident to witness the alleged recovery proceedings; that neither photographs nor video recording of the seizure and arrest were made, therefore, such aspect of the case comes within the scope of further inquiry; that the case has been challaned and the applicant is not required to police for any further investigation. Under these circumstances, learned counsel prays that the applicant may be enlarged on bail. In support of his

contentions, reliance has been placed on the case reported as *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934).

4. On the other hand, Learned Special Prosecutor ANF vehemently opposes the bail application on the ground that no mala fide on the part of the ANF police has been shown to indicate that the alleged recovery has been foisted upon the applicant.

5. The alleged recovery is shown to have been made on receipt of spy information and no independent is shown to have witnessed the alleged recovery. Further, the police also failed to make video recordings / take photographs of the search, seizure and arrest, as observed by the Hon' ble Supreme Court in the reported case of *Zahid Sarfaraz Gill* (supra) relied upon by learned Counsel for the applicant. The applicant is in jail since the date of his arrest i.e. 21.08.2024. Section 9(3)(c) of the Act provides punishment with imprisonment up-to nine years and not less than five years for possessing, importing, or exporting and trafficking 'charas' in contravention of Sections 6, 7 and 8 of the Act, for 500 grams to 999 grams in quantity. It is settled principle of law that at bail stage lesser punishment is to be considered. The quantum of punishment could only be decided by the trial Court after recording pro and contra evidence at trial. No previous record showing involvement of the applicant in any crime of the like nature has been placed. It is also settled law that unless proved guilty, every accused is to be presumed as innocent. In such circumstances, the case of the applicant in my humble view squarely falls within the purview of further enquiry, as contemplated by Section 51 (2) of the Act, read with Section 497(II), Cr.P.C.

6. Above are the detailed reasons of short order passed by me on 24.03.2025, whereby while allowing instant bail application, the applicant Imdad Ullah was directed to be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand only) and P.R. Bond in the like amount to the satisfaction of learned trial Court.

7. The above observations are tentative in nature, which shall not prejudice the case of either party at trial.

JUDGE