

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.795 of 2019

Present:-

Mr. Justice Amjad Ali Sahito

Applicant : Nadeem S/o Ghulam Rasool
through Mr. Muhammad Hanif, Advocate.

Respondent : The State/ANF
through Ms. Abida Parveen Channar,
Special Prosecutor ANF

Date of Hearing : 04.07.2019

Date of decision : 04.07.2019

ORDER

AMJAD ALI SAHITO, J :- Through this bail application, the applicant/accused seeks post-arrest bail in Crime No.33/2016 registered at Police Station ANF, Gulshan-e-Iqbal, Karachi for the offence under Section 6/9-C/14/15 of CNS Act, 1997, after his bail plea has been declined by the learned Incharge Judge, Special Court-I, (CNS) Karachi vide order dated 13.05.2019.

2. Brief facts of the case as per FIR are that on 15.12.2016 at 1705 hours, SIP Abdul Waheed Malik of PS ANF-I, Gulshan-e-Iqbal, Karachi lodged FIRA and alleged therein that on 15.12.2016, he was present at PS when he arrested accused Nadeem in FIR No.32/2016 and during investigation he disclosed that his brother Muhammad Ameen S/o Ghulam Rasool, R/o House No.102, Mohalla Mushki Para, Manghopir, Karachi West through his special agents at Jhopri near his house usually sale the charras and now he must be present there and he has also concealed charras there in Kichara in Jhopri. Hence, on the said information and on direction of his high-ups he along with other ANF staff under supervision of Assistant Director

Muhammad Akram Niazi, duly armed with official weapons, on government vehicle along with accused vide roznamcha entry No.4 at about 1400 hours left PS and at about 1500 hours reached at the pointed spot and on the pointation of accused they saw that Muhammad Ameen (brother of accused) on seeing ANF party coming towards him started running in thin streets and ANF party followed him but he while taking benefit of known areas and narrow streets fled away and if he will appear before the raiding party again they will identify him. The arrested accused led the ANF party and while removing the Kitchara and took out a white colour nylon bag. He requested the people available there to act as witnesses but they refused, therefore ASI Rashid Ali and PC Umair were nominated as mashirs, opened white colour nylon bag and recovered 11 packets of charas which was wrapped with solution tape and then he weighed the same at the spot on digital weighing scale and weight of each packet become 1 kilogram thus total weight of all packets become 11 kilograms. Same of 10 grams charras was extracted from each packet for the purpose of chemical analysis. Memo of arrest and recovery was prepared at the spot which was signed by above said mashirs and returned back to PS along with secured property where he lodged the FIR.

3. Learned counsel for the applicant/accused mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that initially the applicant/accused was arrested in other case but subsequently involved in this case on the ground that his brother was selling charras but nothing has been brought on record which shows that applicant/accused possessed narcotics; that the place of incident was thickly populated but no

private person was associated as witness by ANF to believe that recovery was effected on the pointation of the applicant/accused; that the applicant/accused is behind the bar since 2016. He lastly prayed for grant of bail.

4. On the other hand, learned Special Prosecutor ANF vehemently opposed the grant of bail on the ground that applicant/accused has involved in narcotics case and on his pointation, recovery was effected; that nothing has been brought on record to believe that the applicant/accused has been booked in this case with malafide intention and ulterior motives.

5. I have heard the learned counsel for the applicant/accused as well as learned Special Prosecutor ANF and examined the material available on record. From the perusal of record, it appears that applicant/accused Nadeem was arrested in narcotics case bearing FIR No.32/2016, during the investigation, he has disclosed that his brother Muhammad Ameen sells charras in a hut. On such information, raiding party along with applicant/accused reached pointed place and found Muhammad Ameen standing near the hut, who after seeing the police party ran away from the scene of offence and on the pointation of accused Nadeem, 11 Kg charras was recovered from the hut. All the PWs in their statements recorded U/s 161 Cr.P.C. supported the contention of the FIR. The chemical report received from the office of Chemical Examiner is in positive. The applicant/accused is involved in a heinous offence of narcotics and the case of the applicant/accused squarely falls within the prohibitory clause of Section 497 Cr.P.C. No mala fides on the part of the prosecution has been pleaded by the learned counsel for falsely implicating the applicant/accused in the commission of the offence,

whereas at bail stage only tentative assessment is to be made. As such, learned counsel for the applicant/accused has failed to make out a case for further inquiry.

6. In view of pthe above, the instant bail application is dismissed.

7. The observations made supra are tentative in nature and will not affect the case of either party at the trial.

J U D G E

Kamran/PA