

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1062 of 2020

Applicants : Mst. Zubaida W/o Hakim
Through Mr. Habib-ur-Rehman
Jiskani, Advocate

Respondent : The State
Through Mr. Talib Ali Memon,
Assistant Prosecutor General, Sindh

Date of hearing : 03.09.2020

Date of order : 03.09.2020

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.121/2020 registered under Sections 6/9-C CNS Act, 1997 of PS SITE-A, after her bail plea has been declined by the learned Session Judge, Karachi West vide order dated 21.05.2020.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that nothing was recovered from the applicant/accused but alleged recovery was foisted upon her; that not a single independent witness has been produced to believe that the alleged charas was recovered from the applicant/accused; that the minors are in jail alongwith applicant/accused which is contrary to the judgment of Hon'ble Supreme Court of Pakistan in the case of Mst. Nusrat v. The State (1996 SCMR 973). He lastly prays for grant of post-arrest bail to the applicant/accused. He has also relied upon some other case laws.

4. On the other hand, learned APG has vehemently opposed for grant of bail on the sole ground that if bail is granted to the applicant/accused on the basis that minors are with her then every person will take the minor and start committing such offences, which are against the society.

5. I have heard the learned counsel for the parties and have perused the material available on record. Record reveals that on the spy information, police party raided at the pointed place and arrested the present applicant/accused and recovered from her possession charrs weighing 2000 grams which report is received as **Positive**. The contention of learned counsel for the applicant that minors namely Bisma aged about 6 years and Ghulam Hussain aged 4½ months are in jail with the applicant/accused having no ground even in view of the judgment relied by him; wherein a suckling child was with the petitioner and for that reason, she was granted bail. This case is completely distinguishable from the facts and circumstances of the case in hand. In this context, reliance is placed in the case of **Muhammad Noman Munir v. The State and another (2020 SCMR 1257)**; wherein the Hon'ble Supreme Court has held that:

“3... 1380 grams of cannabis with 07 grams of heroin squarely fall within the mischief of the section ibid that attracts prohibition embodied in section 51 of the Act ibid and as such the argument being presumptuous is beside the mark. Insofar as non-association of a witness from the public is concerned, people collected at the scene, despite request abstained to assist the law and it is so mentioned in the crime report itself, a usual conduct symptomatic of societal apathy towards civil responsibilities. Even otherwise, the members of the contingent being functionaries of the State are second to none in their status, with their acts statutorily presumed, prima facie, as intra vires. Refusal by the Courts below being well within the remit of law calls for no interference. Petition fails. Leave declined.”

6. In view of the above and taking guideline from the cited case, learned counsel for the applicant/accused has failed to make out a case for grant of post-arrest bail. Accordingly, the instant Bail Application is **dismissed**.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

Kamran/PA

JUDGE