

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1015 of 2021

<i>Date</i>	<i>Order with signature of Judge</i>
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For hearing of Bail Application.

02.09.2021

Mr. Gulsher Baloch, Advocate for the Applicant.
Mr. Saleem Akhtar Buriro, Addl. Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Hizbullah seeks his release on post arrest bail in Crime No.390/2021 of P.S Manghopir, Karachi, under Section 6/9-C Narcotic Act. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 20.05.2021; hence, he has approached to this Court through this Application.

Since the facts of the prosecution case are already mentioned in the impugned order as well as FIR, which are annexed with Court file, therefore, there is no need to reproduce the same.

Learned counsel for the applicant submits that recovery allegedly shown to have been recovered from the applicant is 1600 grams of charas in which chemical report is delayed and no independent person has been cited as witness. He further submits that applicant has no previous record nor he is previous convict, therefore, case against him requires further inquiry. In support of his contention, learned counsel places reliance upon the cases of *NASIR MAHMOOD Versus The STATE (2021 P.Cr.L.J 443)* and *MUSHARAF KHAN Versus The STATE (2020 YLR 2060)*.

Learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that instant crime is against the society; however, he concedes that there is no criminal history available on record against the applicant.

Heard arguments, record perused. After careful consideration and meticulous examination of available record, quantity of contraband, as shown, is 1600 grams of charas and no private person was cited as mashir. The case has been challaned by the police and he is no more required for the purpose of investigation or interrogation. Moreover, there is no record that applicant has remained involved in like nature cases and all the PWs are from police department, therefore, question of absconding or tampering with prosecution evidence does not arise. Moreover, the trial has not commenced yet and following dicta laid down by the Superior Courts that one cannot be kept behind the bar without progress in his trial. It is also settled law every accused would be presumed to be blue eyed boy of the law unless he may be found guilty of the charge and law cannot be stretched upon in favour of the prosecution particularly at bail stage. Under the circumstances and in view of above, instant application is hereby allowed. Applicant **Hizbullah son of Sanaullah**, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.100,000/- (Rupees One Lac Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the Applicant, if he will be found misusing the concession of bail.

This Criminal Bail Application is disposed of in the terms indicated above.

JUDGE

Zulfiqar/P.A