

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.802 of 2021**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**06.09.2021**

Mr. Waqar Ahmed Abbasi, Advocate for the Applicant.  
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this bail application, Applicant Sheraz seeks his release on post arrest bail in Crime No.19/2021 of P.S Pak Colony, Karachi, under Section 6/9-C CNSA. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 18.03.2021; 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 applicant being gentleman and law abiding citizen had restrained notorious criminals of area / mohalla, who are not only hardened but are also narcotics dealers as well as peddlers to the effect not to continue their criminal activities in the mohalla. Said narcotics dealers/criminals had attempted to commit his Qatl-i-Amd by making fires upon him on 14.01.2021. To such effect, his mother Mst. Sabra got registered her case against accused Waseem Joja, Ali Dada, Ayaz Mitho, Awais, Naveed @ Naveed Kapi, Muhammad, Salal, Rehman Dada, Zeeshan Kapi, Rizwan, Barkat, Amir Mota, Javaid Chili, Ayyol, Jun aid, Usama, Kashif Dada, Danish, Sajjid Niyyar, vide Crime No.18/2021 with police station Pak Colony under Section 324/34 PPC on 14.01.2021 at 2030 hours, in which not a single nominated accused has been arrested by the police of P.S Pak Colony. Instead, police/ASI Mumtaz Hussain of P.S Pak Colony, got registered instant FIR against applicant on same date viz. 14.01.2021 at 2345 hours within span of 4 hours. He further

submits that applicant has been made victim of the complaint he made against narcotics dealers of area and the police concerned which admittedly is in their league have cooked up instant false case against applicant by foisting alleged contraband against him. Hence, submits that applicant being injured is in custody right from the date of his arrest whereas accused who caused injuries to him are still wandering in the area and are threatening his mother (complainant of Crime No.18/2021 of P.S Pak Colony), to get withdrawal of the case else they again will put her under boiled water. He further submits that as far as CRO is concerned, applicant has been acquitted of the charges arising out of Crime No.27/2019 of P.S Pak Colony under Section 353/324/34 PPC read with Section 7 of ATA. As far as, alleged contraband is concerned, he submits that same being meager in its quantity can easily be foisted against accused. In support of his contention, he places reliance upon cases (i) *SHAHID ALI LAGHARI Versus The STATE (2014 P.Cr.L.J 427)*, (ii) *ASGHAR ALI Versus The STATE (2018 MLD 129)*, (iii) *unreported order passed by this Court on 11.04.2018 in CrI. B.A No.298/2018 re-Awais Nawaz Versus the State*, (iv) *unreported order passed by this Court on 28.05.2020 in CrI. B.A No.573/2020 re-Syed Jamal Versus the State*).

On the other hand, learned Addl. P.G, Sindh appearing for the State opposed the bail application on the ground that huge quantity of charas has been shown to have been recovered from his possession. She; however, is not in position to controvert factum of registration of FIR No.18/2021 by his mother before same P.S against outlaws of the area.

After careful consideration of the submission by learned counsel for the parties and meticulous examination of available record, alleged contraband as shown is 2 K.G and 130 grams of charas. No private person was associate despite place of recovery was thickly populated area. The applicant is in custody since 14.01.2021 i.e. for last nine months and is no more required for any purpose of investigation or interrogation nor the prosecution has claimed any exceptional circumstance which could justify keeping him behind the bars for an indefinite period. The prosecution is also not in position to justify that applicant is a previous convict even trial has not been commenced so far. It is settled law that one cannot be kept behind the bars for indefinite period without progress in his trial. It is also settled principle of law that every accused may be presumed to be blue eyed boy of the law until and unless he may be found guilty of the charge and law cannot be stretched upon in favour of the prosecution particularly

at bail stage, therefore, keeping in view particularly peculiar circumstances of the case; continuous detention of the application for more than nine months as well as minimum punishment which normally may be considered while dealing with bail application, I am inclined to hold that scale tilts in favour of the applicant for grant of bail as no legal or technical purpose will be served if the applicant may be kept behind the bars for an indefinite period. In view of the citations relied upon by counsel for the applicant and mitigating circumstances of the case, I am inclined to hold that case against accused/applicant requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C and is entitled for his release on bail. Consequently, bail application in hand is hereby allowed. Applicant **Sheraz son of Imam Bux** shall be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands only) and PR Bond in the like amount to the satisfaction of learned trial Court.

Needless to mention 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 Applicants, if they are found misusing the concession of bail.

The apathy on the part of police with regard to non-making progress in investigation of crime No.18/2021 of P.S Pak Colony, is concerned, copy of this order be communicated to Inspector General of Police, Sindh, Karachi, to probe the matter by assigning inquiry to senior police officers who shall finalize inquiry within two (2) months' time and if I.Os of both FIRs are found involved, who may be dealt with according to departmental proceedings, and submit such report before this Court through MIT-II. Learned MIT-II to ensure compliance.

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

*JUDGE*