

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2107 of 2021

Applicant : Muhammad Azam s/o Badri Zaman,
through Mr. Khalid Mehmood, Advocate

Respondent : The State, through Ms. Rahat Ehsan,
Additional Prosecutor General, Sindh

Date of hearing : 24.01.2021
Date of order : 24.01.2021

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Muhammad Azam s/o Badri Zaman seeks post-arrest bail in Crime No. 613 of 2021, registered at P.S Quaidabad, Karachi under Sections 6, 9(c), Control of Narcotic Substances Act, 1997 (hereafter the “Act”). His earlier application for the same concession bearing No 4042 of 2021 was dismissed by the learned Model Criminal Trial Court / 1ST Additional Sessions Judge Malir, Karachi vide order, dated 27.09.2021.

2. It is alleged that on 15.09.2021, at 11:20 a.m., on spy information applicant was apprehended by a police party headed by SIP Nazeer Ahmed Chandio on being found in possession of 1500 grams of charas, for which he was booked in the aforementioned F.I.R.

3. The learned counsel for the applicant has mainly contended that the applicant is innocent and he was falsely implicated in this case after being arrested from his house on the same day at about 2:00 a.m.; that the applicant has a dispute with his closed relative on a landed property for that he has been implicated in this case with the collusion of complainant; that despite prior information, police failed to associate any private mashir to witness the alleged recovery which is in violation of section 103, Cr. P.C.; hence, the applicant is entitled for the concession of bail on the ground of further enquiry.

4. On the other hand, learned APG has vehemently opposed this application on the ground that the applicant has been arrested on being found in possession of huge quantity of charas; that as per F.I.R. the complainant attempted to make the private persons as mashirs but they refused; that the applicant has not alleged any enmity with the police officials for implicating him falsely in this case.

5. I have given due consideration to the arguments advanced by both the parties and also perused the material available on record.

6. It appears that on 15.09.2021 charas weighing 1500 grams was recovered from the possession of the applicant, which was sealed on the spot and sent to Chemical Analyzer on very next day i.e. 16.09.2021 for chemical examination. Positive report of Chemical Analyzer brings the case of the applicant within the scope of prohibition, contemplated by Section 51 of the Act. As per F.I.R., private persons did not cooperate to become witnesses in the case. Even otherwise Section 25 of the Act excludes the applicability of Section 103, Cr. P.C.; therefore, association of witnesses from the public is not mandatory in the cases registered under the Act. Applicant's claim of false implication due to enmity with his relative is an issue that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. The huge quantity of charas allegedly recovered from the possession of the applicant can have devastating effect on the society. Prime facie, sufficient material is available on record to connect the applicant with the commission of alleged offence and no case for granting bail to him on the ground of further inquiry has been made out. Hence, instant bail application is dismissed, accordingly. The trial Court is, however, directed to expedite the matter and conclude the trial preferably within a period of three months hereof.

7. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

JUDGE

Athar Zai