

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1967 of 2021

Applicant : Salman s/o Gul Muhammad, through
Mr. Aswad Ali Chohan, Advocate

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

Date of hearing : 26.01.2021
Date of order : 26.01.2021

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Salman s/o Gul Muhammad seeks post-arrest bail in Crime No. 578 of 2021, registered at P.S. Ittehad Town, Karachi under sections 6/9(c) of the Control of Narcotic Substances Act, 1997 (*the "Act"*). His earlier application for the same relief bearing No. 4866/2021 was dismissed by the Additional Sessions Judge-VIII, Karachi-West/MCTC, vide order dated 01.10.2021.

2. Allegation against the applicant is that, on 25.09.2021 at 2100 hours, he was arrested on a tip off by a police party headed by SIP Rana Nisar Ahmed on being found in possession of 2200 grams of charas at Katcha Road, Ali Power House, Gulshan-e-Ghazi, Baldia Town, for which he was booked in the aforementioned F.I.R.

3. Learned counsel for the applicant claims innocence and false implication of the applicant in the instant case. According to him, alleged recovery is doubtful being in violation of section 103, Cr. P.C, entitling the applicant to have favor thereof at bail stage, which has otherwise rendered the case one of further inquiry and since the prosecution has submitted the challan, the custody of the applicant is no more required by the police, and his detention in judicial custody shall serve no purpose.

4. On the other hand, recovery of the charas in huge quantity and red-handed arrest of the applicant; non-applicability of section 103, Cr. P.C in the case registered under the Act and non-existence of enmity with police party are the grounds of learned APG for the rejection of the instant application.

5. Heard. Record perused.

6. Perusal of the record shows that the alleged recovered charas was sealed on the spot and sent to Chemical Analyzer 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. 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 with regard to his false implication 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. Prima facie, sufficient material is available with the prosecution to connect the applicant with the commission of alleged offence and no case for granting bail to him on the ground of alleged benefit of doubt and further inquiry has been made out; hence, instant bail application is dismissed, accordingly.

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

JUDGE

Athar Zai