

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Bail Application No. 762 of 2021

Date	Order with signature of Judge
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For hearing of bail application

15th June 2021

Mr. Khawaja Muhammad Azeem, advocate for applicant
Mr. Faheem Hussain Panhwar DPG

Through instant bail application, applicant Babar Khan alias Babar Langra seeks post arrest bail in Crime No.95/2021 registered at P.S Pak Colony, Karachi for offences under Sections 6/9(c) of C.N.S. Act, 1997.

2. Precisely relevant facts are that on 25.03.2021 at 2:30 a.m. upon spy information, SIP Waheed Mirza reached at the pointed place, apprehended the applicant and from his possession charas weighing 2 K.G and 350 grams. The accused and case property were brought at Police Station where FIR was registered against the applicant. After usual investigation he was sent up for trial.

3. Learned counsel for the applicant *inter-alia* contends that applicant is innocent and has been implicated falsely; that nothing has been recovered from his possession and the charas has been foisted upon him; that no private person was associated to witness the recovery and arrest; that there is no apprehension of tempering the evidence as all the witnesses are police officials.

4. Learned DPG vehemently opposed the bail application and contended that there was sufficient material on record to connect the applicant to the offense for which he has been charged; that from possession of the applicant huge quantity of charas was effected; that no enmity or ill-will has been pointed out against the police officials to falsely

implicate him in this heinous offence, as such the post arrest bail application of the applicant should be dismissed.

5. According to prosecution case, the applicant was caught red handed with a huge amount of charas; that such a large quantity of charas was unlikely to have been foisted on him especially as there is no allegation of any enmity or ill-will between the applicant and the police officials who arrested him; that the charas was deposited on the same day with the chemical examiner and the chemical report is positive; that in the case of *Socha Gul v. The State* (SCMR 2015 1077), it was held that bail should be granted sparingly in narcotics cases bearing in mind Section 51 of the Control of Narcotic Substances Act, 1997 and the fact that as per *Socha Gul's* case (Supra) the offense is a crime against society. As regards the argument of learned counsel for the applicant that no independent persons were associated to witness the arrest and recovery is concerned, in my view this argument is not of much significance at this stage for the reason that the recovery was effected at the odd hours of night during pandemic of COVID-19 and in any event Section 25 of the CNS Act excluded application of Section 103, Cr.P.C in cases of narcotics. Furthermore, mere fact that the witnesses belong to police is no ground to discard their evidence, they are as good and respectable witnesses as other public witnesses. Applicant's claim of false implication is an issue that cannot be attended without going beyond the scope of tentative assessment, a venture prohibited by law. In my view prima facie, there is sufficient material on record to connect the applicant with the commission of the offense.

6. In the above circumstances, the applicant has failed to make out a case for grant of bail, hence this bail application is dismissed.

7. Needless to say the observations made in this order are of a tentative nature and shall not be influenced the trial Court while deciding the case on merits.

J U D G E