

thereafter, the seal of the container was broken through cutter and 20 Kgs heroin powder concealed in the double coating in rim of the tyres of tractor, hence, this FIR.

3. Learned counsel for the applicant, inter alia, contends that no iota of evidence is available against the applicant to connect him in this case; all allegations are false; that godown as shown is on rental basis in the name of Mohammad Mairaj and not with the applicant; that plea of prosecution that applicant is Mairaj is yet to be established, hence, applicant is entitled for bail.

4. Learned Special Prosecutor ANF has opposed the bail application and contended that the driver, who was arrested disclosed that the tractor wherefrom 20 KG narcotics was recovered was dispatched by the applicant as well landlord of the rental godown as stated in his statement under Section 161 Cr.P.C. that applicant is his tenant, however, he has shown his name as Mairaj whereas clearing agent also admitted that applicant is Mairaj, and clearing agent also claiming that applicant is Mairaj, receipts of amount recovered from the applicant in favour of clearing agent shows that applicant by showing him as Mairaj was involved in this narcotics business. Lastly, he contends that applicant is previously convicted; hence, he is not entitled for bail. At this juncture, learned counsel for the applicant in rebuttal submits that accused was convicted on his plea of guilt, hence, this was not complete adjudication, therefore, this judgment cannot come in his way.

5. At the outset, it would be conducive to refer facitea the judgment of trial Court, which is that:

“ Accused Sadaqat Khan and Qamar Mahmood have admitted that on 06.07.2014, they were apprehended near Doctors Hospital, Canal Road, Lahore and from their possession 2 Kgs and one KG heroin was recovered respectively. Qamar Mahmood accused have stated that he has to appear in B.A. exams, therefore, leniency may be taken while awarding him sentence. Accused left them at the mercy of the court. They deposed that they want to bright their carries free from any encumbrance of ill, if any, in the past, therefore, they may be given a chance to mend themselves. Prosecution has not been able to bring any previous record of such like cases of accused. They are first offenders, quite young, deposed the truth and have saved the precious time of the Court, therefore, Sadaqat Khan is convicted U/S 9 (c) CNSA, 1997 and is awarded 02 years R.I. with fine of Rs.30,000/-.

6. In response to *pleas*, raised by learned counsel for the applicant / accused, it needs to be reiterated here that while exercising jurisdiction under Section 497 Cr.P.C the Court (s) are not supposed to dive *deep* into merits of the case but determination of existence or non-existence of *reasonable grounds* towards link of the accused with commission of offence or *otherwise* could *legally* be made only on basis of *tentative assessment*. A view of existence or non-existence of *reasonable grounds* would never mean stamping one with tag of **innocence** or **guilt** but is meant to maintain a balance between *liberty* of one pending determination of his *guilt* and likely possibility of harmful effects in releasing a person, charged with offence falling within category of Section 497(1) Cr.P.C.

7. Candidly, the case in hand is of recovery of 20 Kgs of heroin which was *allegedly* kept by the applicant in his godown and dispatched the same from Lahore to Karachi; evidence of godown owner, clearing agent and drivers shows all the involvement of the applicant with the commission of crime. It may be added that applicant / accused is charged with an offence which *squarely* falls within meaning of **offence against society** which alone may be the reason to deny one bail. This has been the reason

that provision of Section 51 was included in the Act thereby placing a bar in granting bail in such like offences. Further, it is also not a disputed position that applicant / accused is also previous convict on *similar* charge i.e possessing 2 K.gs of heroin which also creates a circumstances justifying denying bail to applicant / accused who, *otherwise*, is charged with such an offence. Accordingly, applicant is not entitled for bail, hence, instant criminal bail application is dismissed.

JUDGE