

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 665 of 2022

Applicants : (1) Mst. Zoya widow of Muhammad Niaz
(2) Mst. Sakina wife of Muhammad Javed
through Mr. Saeed Ahmed Awan, advocate

Respondent : The State, through Mr. Faheem Hussain
Panhwar, D.P.G.

Date of hearing : 09.05.2022
Date of order : 09.05.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicants/accused Mst. Zoya widow of Muhammad Niaz and Mst. Sakina wife of Muhammad Javed seek post-arrest bail in Crime/FIR No. 461 of 2021, registered at P.S. Mochko, Karachi under sections 6/9(c) of the Control of Narcotic Substances (Sindh Amendment) Act, 2021. Their earlier application for the same relief in Sessions Case No. 242 of 2022 was dismissed by the learned Additional Sessions Judge-VIII, Karachi-West vide order, dated 30.03.2022.

2. As per F.I.R., on 01.12.2021 at 02:00 a.m., the applicants were arrested by a police party headed by ASI Mukhtiar Ahmed of P.S. Mochko, Karachi on being found in possession of 400 grams of Ice/Crystal, each, at Main Hab River Road, near Lucky Chowrangi, Mochko, Karachi, for which they were booked in the aforesaid Crime.

3. After hearing the learned counsel for the applicants as well as learned D.P.G. and perusing the material available on record with their assistance, it appears that the alleged recovered Ice/Crystal ought to have been received in the office of Chemical Analyzer within 72 hours of the seizure as required by Rule 4 (2) of the Control of Narcotics Substances (Government Analysis) Rules, 2001, but admittedly the same was received in the office of Industrial Analytical Centre (IAC), H.E.J. Research Institute of Chemistry, University of Karachi, on

07.02.2022, on sixty-sixth day of alleged recovery. Nothing is available in record *prima facie* to show as to where the case property was lying during intervening period. Under such circumstances, the credibility of alleged recovery of contraband article and of positive analysis report is yet to be established; as such, question of involvement of the applicants in alleged offence needs serious consideration in terms of further enquiry as envisaged under sub-section (2) of Section 497, Cr.P.C. I, therefore, admit the applicants to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.100,000/- (*Rupees One Lac Only*) each and P.R. Bond in the like amount to the satisfaction of the trial Court.

4. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicants on merits. However, in case the applicant(s) misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving her notice, in accordance with law.

JUDGE

Athar Zai