

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 359 of 2022**

Applicant : Suneel S/o Shamsuddin, through  
Mr. Gulsher Baloch, advocate.

Respondent : The State, through Mr. Siraj Ali Khan  
Chandio, Additional Prosecutor General.

Date of hearing : 05.04.2022  
Date of order : 05.04.2022

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**ORDER**  
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**ZAFAR AHMED RAJPUT, J:-** Applicant/accused Suneel s/o Shamsuddin being unsuccessful to get the concession of post-arrest bail in Cr. Bail Application No.392/2022 from Model Criminal Trial Court/1<sup>st</sup> Additional Sessions Judge Malir, Karachi vide order, dated 02.02.2022, through instant application seeks the same concession from this Crime/FIR No.16 of 2022, registered under sections 6/9(c) of the Control of Narcotic Substances Act at Police Station Sharafi Goth, Karachi.

2. Allegation against the applicant is that, on 12.01.2022 at 0145 hours, he was arrested by a police party headed by SIP Umer Hayat on being found in possession 1605 grams of charas at Service Road, Jamal Goth near C-1, Bus Stop, Landhi, for which he was booked in the aforesaid F.I.R.

3. The learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case; that the applicant is in serious condition and he is under treatment in JPMC, Karachi and Chief Medical Officer District Prison has issued the medical report to the effect that he is suffering from urinary infection; that the place of incident is located in a highly thickly populated area but police failed to associate any private mashir to witness the alleged recovery, which fact alone creates doubt in a prudent

mind about the guilt of the applicant and benefit thereof always goes in favour of the applicant even at bail stage; hence, the applicant is entitled for the concession of bail; that the applicant has no concern with the alleged recovery of charas which has been foisted upon him.

4. On the other hand, learned A.P.G. resists the grant of bail to the applicant on the grounds that the applicant was arrested red-handed on being found in possession of charas in huge quantity and since no private witness was available, the police officials acted as mashirs.

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

6. Perusal of the record shows that the recovered charas weighing 1605 grams was sealed on the spot and sent to Chemical Analyzer for chemical examination on the very next day. 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. It has been observed by the Apex Court in the case of *Muhammad Noman Munir v. The State and another* (2020 SCMR 1257), while rejecting bail plea in a case of 1380 grams of cannabis with 07 grams of heroin, as under;

*“Insofar as non-association of a witness from the public is concerned, people collected at the scene, despite request abstained to assist the law and it is so mentioned in the crime report itself, a usual conduct symptomatic of societal apathy towards civic responsibilities. Even otherwise, the members of the contingent being functionaries of the State are second to none in their status, with their acts statutorily presumed, prima facie, as intra vires.*

7. 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. It appears from the medical report of the applicant, referred to by the learned counsel for the applicant, that the applicant has history of heroin addiction, ice crystal and smoking cigarette. However, he can be treated in custody. 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 on record 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 has been made out; hence, instant bail application is rejected, accordingly.

8. 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

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