

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1262 of 2022
Criminal Bail Application No.1642 of 2022

Date	Order with signature of Judge
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For hearing of bail application

18th October 2022

Mr. Shamraiz Khan Tanoli advocate for the applicants

Mr. Abrar Ali Khichi, Additional Prosecutor General Sindh

Salahuddin Panhwar, J.- Through this order, I intend to dispose of the captioned bail applications. It is the case of the prosecution that a police party of P.S Gulistan-e-Johar, led by complainant ASI Muhammad Urs, on spy information, apprehended the applicants and from their possession allegedly recovered 1550 grams and 1500 grams of Charas, therefore, the present case bearing Crime No.258/2022 under section 6/9(c) of CNS Act 1997 was registered against the applicants.

2. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated by the police in the present case; that nothing was recovered from the possession of the applicants and the charas was foisted upon them; that though the place of incident is thickly populated area but no independent person has been associated to act as witness; that all the prosecution witnesses are police officials, hence, question of tampering with the prosecution evidence does not arise. Lastly it is argued that applicants are behind the bar since the date of their arrest, therefore, he prayed for their release on bail.

3. In contra, learned Additional Prosecutor General Sindh while opposing the bail application contended that the offence with which the applicants are charged is against the society; that no enmity or ill-will has been pointed out against the police officials and the trial has been commenced and evidence of the complainant has been recorded and only two witnesses are

remaining to be examined, hence he sought for dismissal of instant bail applications.

4. Heard and perused the record.

5. The offence with which the applicants are charged is an offence against society at large and carries punishment of death or imprisonment for life; that the applicants were caught red handed with huge quantity of charas; that there is no allegation of any enmity between the applicants and the police officials who arrested them. In the case of *Socha Gul v. The State (SCMR 2015 1077)*, the Hon'ble Supreme Court has held that bail should be granted sparingly in narcotics cases keeping in mind Section 51 of the Control of Narcotic Substances Act, 1997, which provides a note of caution as well as the fact that the offence amounts to a crime against society. With regard to the non-association of private persons, Section 25 of the CNS Act exempted their presence in narcotics cases even otherwise the evidence of police officials is as good as any other citizen. In the case reported *Noor Khan vs. The State (2021 SCMR 1212)*, the Hon'ble Apex Court declined bail to an accused from whom 1320 grams of cannabis was recovered by the police officials. With regard to non-compliance of Section 21 of CNS Act, the Hon'ble Apex Court in the case of *Zafar vs. The State (2008 SCMR 1254)*, held that sections 20 to 22 of C.N.S. Act are directory and their non-compliance would not be a ground for holding the trial/conviction bad in the eyes of law. With regard to claim of false implication, this issue cannot be attended without going beyond the barriers of tentative assessment, an exercise prohibited by law.

6. In the above circumstances, I do not find the applicants entitled for bail at this stage of case. Accordingly, the bail plea is hereby dismissed. As the trial has commenced, therefore, learned trial Court is directed to conclude the trial within one month.

7. The observations made hereinabove are tentative in nature and the trial court shall not be influenced with the same while deciding the case on merits.

J U D G E