

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Bail Application No. 1723 of 2022

Date	Order with signature of Judge
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For hearing of bail application.

16th September 2022

Ms. Sanawera Hashim, advocate for the applicant/accused.
Ms. Seema Zaidi, Addl. P.G. Sindh.

It is alleged that on a tip-off complainant ASI Ghulam Hussain of PS Peerabad arrested the applicant and co-accused Shahzad and recovered 1030 grams and 1050 grams of charas respectively as well as 30 bore unlicensed pistols containing live bullets from their possession, hence the instant FIR.

Heard and perused the record.

Record reflects that though it was day time when the complainant allegedly received spy information but nothing has been brought on record to show that whether he took any step to associate any independent person to witness the recovery and arrest. With regard to argument of the learned Addl. PG that the offence with which the applicant is charged is entailing death or imprisonment for life or imprisonment, as per FIR, 1030 grams of Charas was allegedly recovered from his possession. Nothing has been brought on record to show that whether it was net or gross weight of the alleged recovered, however, only 30 grams exceeds the quantity of one kilogram. Apparently, a meager quantity of Charas i.e. 30 grams has brought the case of applicant within the ambit of Section 9(c) of CNS Act, therefore, it appears to be a borderline case between subsections (b) and (c).

In a case reported as, Aya Khan and another v. The State (2020 SCMR 350), it was held that, "nowhere it is stated that whether it was net or gross weight of the narcotics and in this eventuality it becomes a border line case between subsections (b) and (c) of section 9, C.N.S.A., 1997".

The applicant is not required for further investigation, he is behind the bars since the date of his arrest and no useful purpose would

be served to keep an accused for an indefinite period. A case for grant of bail is made out at this stage. Consequently, the applicant is admitted to post-arrest bail subject to his furnishing bail bonds in the sum of Rs.50,000/-and P.R bond in the like amount to the satisfaction of the trial Court.

Needless to mention here that the observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

J U D G E

Sajid