DATE	ORDER WITH SIGNATURE OF JUDGE(S)

02.01.2023.

Mr. Taimoor Hussain Behrani, Advocate applicant.
Ms. Rameshan Oad, A.P.G for State.

O R D E R

Muhammad Saleem Jessar, J.- Through instant application, applicant Muhammad Taqqi seeks his admission on post arrest bail in Crime No.161 of 2022 registered at PS Sehwan under Section 9(d) CNS Act, 1997.

2.   Learned counsel submits that allegation against the applicant is that he allegedly pointed out the police that alleged contraband viz. Bhang is lying under the chaff (dried straws of the wheat crop) inside the room; however, place wherefrom alleged Bhang has been been shown to have been recovered does not belong to applicant or co-accused nor the police have specifically mentioned in FIR as well memo of recovery of arrest that place of recovery is owned by applicant or co-accused. He further submits that applicant is juvenile and is entitled for bail. In support of his contention he has drawn attention of the Court towards Annexure 'F' (page 39 of the Court file) where smart card bearing No.41506-0492447-7 has been issued in favour of applicant on 05.10.2021 and per smart card his date of birth is 25.03.2005. He further submits that co-accused Buxial Solangi against whom the role of throwing away the contraband was assigned, has already been granted pre-arrest bail by this Court on 16.12.2022 vide Criminal Bail Application No.S-1179 of 2022. In support of this contention he submits the certified

true copy of said order under the cover of his statement dated 02.01.2023, taken on record. He therefore, submits that case against applicant requires further enquiry hence he may be granted bail.

3.   Learned A.P.G appearing for State opposes the bail application on the ground that huge quantity of intoxicated contraband has been shown to have been recovered on his pointation therefore, his case comes within the ambit of prohibitory clause hence he is not entitled for bail. She; however, admits that police / IO had not mentioned under the memo of recovery and arrest as well FIR regarding the ownership of place of recovery.

4.   Heard. Record perused.

5.   Per contents of FIR the applicant was captured by police inside the cattle shed and on inquiry he disclosed before the police that alleged intoxicated contraband is hidden within the chaff lying inside the room; however, he did not disclose or claimed the ownership of said cattle shed even the police did not collect any information whether the applicant was employee of the owner of cattle shed nor any nexus has been shown by prosecution. In the circumstances, question of involvement of applicant in this case is yet to be responded by prosecution and is to be determined by trial Court after recording evidence of prosecution witnesses. It is settled law that every accused is presumed to be blue eyed boy of law until and unless he may be found guilty of alleged charge and law cannot be stretched upon in favour of prosecution particularly at bail stage. Moreover, the applicant is under age therefore, his detention in jail with other hardened criminals would spoil his future / career.

6.   Prima facie the applicant has not been shown owner of the cattle shed nor alleged contraband was recovered from his exclusive possession. Co-accused has been extended grace of extra ordinary relief and case of applicant is on similar footings. Therefore, propriety of law demands constant treatment should be extended in his favour. In my view the applicant deserves to be released on bail.

7.   In view of above peculiar circumstances of the case, I am of the opinion that his case comes within the ambit of further inquiry as required by sub-section 2 to Section 497 Cr.P.C. Consequently instant bail application is hereby allowed. The applicant shall be released on bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and P.R Bond in the like amount to the satisfaction of the learned trial Court.

<div align="right">JUDGE</div>

Tufail