

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1992 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
<u>For hearing of bail application.</u>	
<u>8th December, 2021</u>	
<p>Mr. Nisar Ahmed Metlo, Advocate for applicant. Mr. Talib Ali Memon, APG a/w SIP Asghar Ali, I.O.</p> <p style="text-align: center;">=====</p>	
<p>Omar Sial, J.: Farhan has sought post arrest bail in crime number 441 of 2021 registered under sections 6 and 9(c) of the Control of Narcotic Substances Act, 1997 at the Ibrahim Hyderi police station. Earlier, his application seeking bail was dismissed by the learned 1st Additional Sessions Judge, Malir on 12-10-2021.</p> <p>2. Facts of the case are that on 4-10-2021 a police party led by S.I. Syed Mohammad Ali Shah was on normal patrol duty when it received information about the presence of a person selling charas. The police party reached the identified place where they saw the applicant and upon his search 1200 grams of charas was recovered from his possession.</p> <p>3. The learned counsel for the applicant has argued that the applicant is 23 years old and innocent; that the charas has been foisted upon him; that there was no purchaser of the charas caught by the police; that no private witness has been cited; that section 103 Cr.P.C. was violated. The learned Assistant Prosecutor General on the other hand has opposed the grant of bail.</p> <p>4. I have heard the learned counsel for the applicant as well as the learned Assistant Prosecutor General. My observations and findings are as follows.</p> <p>5. As regard the learned counsel for the applicant's arguments, section 25 of the CNS Act, 1997 ousts the operation of section 103 Cr.P.C. from cases falling within the ambit of that legislation. This fact on a number of occasions has been reiterated by the Honorable Supreme Court. Similarly, it is not a secret that members of the general public are always apprehensive to be cited as witnesses in criminal cases, in particular those connected with narcotics. While efforts should be made by the police to include independent witnesses in their</p>	

investigation, the testimony of police officers cannot be discarded solely on the ground that they belong to the force. No malafide or ill will, apart from a blanket statement that the applicant was nominated in this case due to enmity, has been raised or argued by the learned counsel for the applicant, to prima facie show that malafide was the reason for falsely nominating the applicant in the case.

6. From the record it appears that the applicant was apprehended red handed with 1200 grams of charas in his possession. The entire seizure was sent for analysis and the chemical analyst has opined that the seized material was *charas* weighing more than one kilogram net. Charas is a narcotic, the possession of which is prohibited under the CNS Act 1997 and possession of which quantity carries a potential life term. As mentioned above, no malafide or ill will on the part of the police has been shown. The impugned order is a well-reasoned one and merits no interference. The bail application is therefore dismissed.

JUDGE