

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 2141 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

22nd December, 2021

Mr. Fiaz Ahmed Abro, Advocate for applicant.

Mr. Muntazir Mehdi, Addl.P.G.

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Omar Sial, J: Mohammad Razzaq has sought post arrest bail in crime number 529 of 2021 registered under sections 6 and 9(c) of the Control of Narcotic Substance Act, 1997 at the Sharafi Goth police station. Earlier, his application seeking bail was dismissed by the learned 1st Additional Sessions Judge, Malir on 11-11-2021.

2. A background to the case is that the aforementioned F.I.R. was registered on 2-11-2021 on the complaint of S.I. Umer Hayat. Hayat reported that a police party led by him was on normal patrol duty when it noticed two persons who they found to be suspicious. The men were stopped and searched. They were identified as the applicant Mohammad Razzaq and Mohammad Zahid. 1230 grams of charas were recovered from the possession of the applicant whereas 1550 grams were recovered from Zahid.

3. Learned counsel for the applicant has argued that the charas has been foisted upon the applicant; that section 103 Cr.P.C. was not complied with; that the material seized was not sent for chemical analysis and finally that the weight of the charas seized is such that it falls on the border line of section 9(c) and 9(b) of the CNS Act, 1997 therefore bail may be granted.

4. I have heard the learned counsel for the applicant as well as the learned Additional Prosecutor General.

5. As far as the applicability of section 103 Cr.P.C. is concerned, the same is ousted by virtue of section 25 CNS Act, 1997 from cases falling within the ambit of the said Act. Record reveals that the seized material was sent for chemical analysis on 3-11-2021 i.e. the very next day of the seizure and that the chemical analyst has opined that the seized material was charas. The net weight of the

charas was found to be 1178 grams. The learned counsel's argument that in accordance with the sentencing guidelines of the Lahore High Court issued in the case of Ghulam Murtaza and another v The State (PLD 2009 Lahore 362) the applicant was not likely to be punished for a period of imprisonment attracting the prohibitory clause contained in subsection (1) of section 497, Cr.P.C., carried little weight. The Honorable Supreme Court has already clarified in the case of Socha Gul v The State (2015 SCMR 1077) that the sentencing guidelines issued by the Lahore High Court, Lahore in the above mentioned case of Ghulam Murtaza are not relevant at the stage of bail or during the trial. Prima facie it appears that the applicant was apprehended red handed with 1178 grams of charas – a narcotic the possession of such a quantity of which carries a potential life term. No malafide on the part of the police has been claimed or argued by the learned counsel, which malafide could have formed the basis of lodging a false case against him.

6. With much respect, the grounds urged by the learned counsel for the applicant are not of such a nature which would entitle the applicant to be admitted to bail pending trial. The bail application therefore stands dismissed.

JUDGE