

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1951 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
<u>For hearing of bail application.</u>	
<u>24th November, 2021</u>	
<p>Mr. Munawar Hussain, Advocate for applicant. Mr. Talib Ali Memon, APG.</p> <p style="text-align: center;">=====</p>	
<p><u>Omar Sial, J:</u> Naseer Ahmed has sought post arrest bail in crime number 372 of 2021 registered under sections 6 and 9(c) of the Control of Narcotic Substances Act 1997 at the Baghdadi police station. Earlier, his application seeking bail was dismissed by the learned 1st Additional Sessions Judge, Karachi South on 20.9.2021.</p>	
<p>2. Facts of the case are that the aforementioned F.I.R. was lodged by S.I. Subhan Ali on 24-6-2021 reporting an incident of earlier that day. He recorded that a police party led by him was on normal patrol duty when it received information that three persons had come to the Lyari area from Hub Chowki and that these persons were sellers of methamphetamine (ice). The police party reached the designated spot and arrested the three persons, namely Khan Muhammad, Abdul Qayyum and the applicant. 500 grams of ice were recovered from the possession of the applicant whereas 300 grams and 400 grams were recovered from Khan Muhammad and Abdul Qayyum respectively.</p>	
<p>3. I have heard the learned counsel for the applicant as well as the learned Assistant Prosecutor General.</p>	
<p>4. The learned counsel for the applicant has argued that the applicant is innocent and that the narcotics have been foisted upon him. He was of the view that the fact the F.I.R. was registered after only one and a half hour of seizure creates doubt. He further argued that the interim challan was presented after one and a half month; the F.I.R. does not disclose as to how the ice was weighed; that no independent witness was cited and that the case of the applicant does not fall within section 9(c) of the CNS Act, 1997. The learned Assistant Prosecutor General has supported the impugned order.</p>	

5. None of the grounds raised by the learned counsel for the applicant is sufficient for the grant of bail. No cogent reason has been given as to why the police would foist the narcotics on the applicant and his associates. It has not been denied that section 25 of the CNS Act 1997 excludes the applicability of section 103 Cr.P.C. How the narcotics were weighed requires deeper appreciation of evidence. The learned counsel is correct in his submission that the weight of the seized narcotic falls within the ambit of offences punishable under section 9(b) of the CNS Act 1997 and this carries a potential sentence of up to seven years. The punishment thus falls within the non-prohibitory clause of section 497 Cr.P.C. I am cognizant of the ruling of the Honorable Supreme Court in the Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) wherein it was held that bail should generally be granted in cases which fall within the non-prohibitory clause of section 497 unless there are extraordinary and exceptional grounds to deny it. Methamphetamine is a highly potent stimulant known for its euphoric effects. The drug comes in different forms: from pills and odorless powders to oily brown substances. However, none are as potent as crystal meth, which is also known as ice; the narcotic seized in this case. The consumption of ice is the new evil taking roots in our society. Its spread must be nipped in the bud before it spreads any further in society. The lethal effect of ice on an individual, in my opinion, is an exceptional ground (in light of the Tariq Bashir (supra) order, that merits bail to be dismissed in a case which falls within the non-prohibitory clause of section 497 Cr.P.C.

6. The applicant was prima facie arrested red handed with 500 grams of ice. No malafide on the part of the police has been reasonably argued. The possession of ice is prohibited under the CNS Act 1997. No leniency can be shown due to the lethal potency of the narcotic. The bail application is therefore dismissed.

JUDGE