

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Crl. Bail Application No. 1487 of 2019

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

31.12.2019

Mr. Abdul Ghaffar Khan, Advocate for Applicant.
Ms. Rehat Ahsan, Addl.P.G. for the State.

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Omar Sial, J.: The applicants Kashif Ali and Muhammad Asif have sought pre-arrest bail in crime number 264 of 2019 registered under sections 269, 273, 337-J and 34 P.P.C at the Ittehad Town police Station. Earlier their pre-arrest bail was turned down by the learned Additional Sessions Judge IX, Karachi (West) on 9-10-2019.

2. Facts relevant for the present purpose are that a police party on normal patrol duty on 6-10-2019 was informed that a person is selling mawa. The police reached the spot, saw three persons. Two ran away while one was apprehended. The apprehended accused whose name was Ali Raza told the police that the two boys who ran away were the applicants. Police recovered 90 packets of mawa from Ali Raza.

3. I have heard the learned counsel for the applicants as well as the learned Addl.P.G.

4. The offences under sections 269 and 273 are both bailable offences. The chemical report of the seized substance is not on record though sufficient time was granted to the State to file the same in court to show that the material seized was indeed a banned/prohibited one. In any case, there is no evidence to suggest that the applicants were in possession of or selling mawa. No independent witness has been cited. Ali Raza , the co-accused who was allegedly caught with mawa has been granted bail by the XVIII Judicial Magistrate on 7-9-2019 therefore on the ground of consistency too the applicants are entitled to bail. At this preliminary stage and in absence of the chemical report, the allegation of malafide, as argued by the learned counsel for the applicants, cannot be conclusively ruled out.

5. Above are the reasons for my short order of 23.12.2019 which was as follows:

“For reasons to be recorded later on, interim bail granted to the applicants is confirmed on the same terms.”

JUDGE