

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 311 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

31-03-2023

Mr. Khalid Iqbal, Advocate for applicant.

Ms. Robina Qadir, Addl.P.G.

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Omar Sial, J: Danish alias Dana has sought post arrest bail in crime number 665 of 2022 registered under section 9(c) of the CNS Amendment Act, 2022 at the Nazimabad police station. Earlier, his application seeking bail was dismissed on 23.01.2023 by the learned 1st Additional Sessions Judge, Karachi Central.

2. A background to the case is that the aforementioned F.I.R. was registered on 11.12.2022 on the complaint of S.I. Mohammad Arshad. The police officer reported that earlier that day a police party led by him was on patrol duty when spy information regarding one person in the possession of narcotics was received. The police party reached the identified spot and apprehended the applicant and recovered 2050 grams of charas from him.

3. Learned counsel has argued that the punishment of the crime falls within the non-prohibitory clause of section 497 Cr.P.C. and that on 09.12.2022 the mother of the applicant had written a letter to the SSP Central complaining that her son had been picked up by the police on 09.12.2022. I have heard the learned counsel and the learned Addl.P.G.

4. From the record it appears that the applicant was apprehended red handed with a sizeable amount of charas in his possession. The substance seized was opined to be charas – a narcotic the possession of which is prohibited under the CNS Act, 1997.

5. I find the letter on record ostensibly written by the mother of the applicant to be extremely dubious to say the least. It is notable that this

letter was not even mentioned in the arguments before the learned trial court. I also find the assertion that it has been written by the mother of the applicant to be doubtful as the person writing it is a Hawa Bai w/o Hussain whereas the name of the father of the applicant is Mohammad Yousuf. I am also not impressed with the argument that bail should be granted as the offence falls within the non-prohibitory clause of section 497 Cr.P.C. The offence carries a potential sentence of up to 14 years and cannot be less than 9 years. Learned counsel's argument is based on the assertion that the lowest sentence should be taken into consideration. I am not inclined to make such a concession, in view of the quantity of the charas seized as well as the dubious letter that has been put on record to justify police malafide.

6. Bail application stands dismissed.

JUDGE