

**IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 763 of 2023

Applicant : Imran Ali  
through Mr. Muhammad Anjum, Advocate

Respondent : The State  
through Mr. Talib Ali Memon, A.P.G.

Date of hearing : 29<sup>th</sup> May, 2023

**ORDER**

**Omar Sial, J:** Imran Ali has sought post arrest bail in crime number 388 of 2022 registered under sections 6 and 9(2)(d) of the CNS Act, 1997. Earlier, his application seeking bail was dismissed by the learned 2<sup>nd</sup> Additional Sessions Judge, Karachi West on 15.02.2023.

2. The case against the applicant is that he along with one Mohammad Iqbal on 14.12.2022 they were intercepted by a police party of the Pak Colony police station led by S.I. Muzammil Shah while they were on a motorcycle. 300 grams of crystal methamphetamine was recovered from the possession of Muhammad Iqbal whereas Imran Ali had 240 grams of the same substance in his possession.

3. Learned counsel for the applicant has argued that the punishment for the quantity of the narcotics recovered from the applicant would fall within the non-prohibitory clause and that Muhammad Iqbal with a similar role has already been granted bail by this court thus the applicant too deserves the concession on grounds of consistency. Learned APG has opposed the grant of bail.

4. The applicant was, upon a tentative assessment, caught red handed with 240 grams of a narcotic that was identified by the laboratory as "caffeine and diacetylmorphine (heroin) commonly known as crystal", a substance the possession of which is prohibited under the narcotics legislation. No enmity or ill-intent on part of the police is borne out from a tentative assessment of the record, though it has been argued by learned counsel that the applicant and his colleague had slipped while riding a

motorcycle and that they were caught and beaten by the public and then this false case registered against him. Even though our behavior as a nation leaves a lot to be desired, yet, I find it difficult to believe at this preliminary stage that the common public would start beating 2 persons and register false cases against them simply because their motorcycle slipped and they collided with members of the public.

5. As regards the argument that the quantity of the substance seized is such that it's punishment falls within the non-prohibitory clause of section 497 Cr.P.C. and thus the applicant is entitled to bail, I am not impressed with the argument. Counsel is correct when he asserts that the punishment falls within the non-prohibitory clause of section 497 Cr.P.C. It is well settled though that this would not mean that in every such case bail must necessarily be granted. Bail can be refused if there are exceptional or extraordinary grounds to do so. Reference in this regard may be made to the case of Tariq Bashir and 5 others vs The State (PLD 1995 SC 34). My reason to deny the applicant bail in these circumstances is that the potency and toxicity of even small amounts of the substance seized. Even one gram of the substance could have disastrous consequences. The type of substance recovered is penetrating the lower strata of society at a very rapid pace and zero tolerance should be shown in its dealing and possession. The type of narcotic recovered and its potency together with the high probability of death due its use makes me conclude that this is an exceptional ground where bail may be denied.

6. The argument regarding consistency is also not applicable in the present case. Co-accused Mohammad Iqbal was granted post arrest bail by this very court; however, it was on the sole ground of his medical condition in jail. Opinions were sought from the jail authorities, who had informed the court that the treatment required for Mohammad Iqbal was not available in jail and that he required a series of surgeries. The argument is not valid in the case of the present applicant.

7. In view of the above, the bail application is dismissed.

JUDGE