

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-266 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.
17.04.2023

Mr. Muhammad Iqbal Qassar, advocate for the applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicant/accused namely, Sajjad Ali seeks post-arrest bail in Crime No.04/2023, registered at Police Station Matli for the offence under sections 9 (c) Control of Narcotic Substances Act, 1997. Earlier the bail plea of the applicant/accused was declined by the learned 1st Additional Sessions Judge/MCTC, Badin vide order dated 14.03.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant has mainly argued that the applicants/accused is innocent and has falsely been implicated in this case; that the story narrated in the FIR is false, absurd and concocted one; that as per prosecution version the vehicle was stopped and alleged recovery was effect however, it is impossible and does not appeal to the mind that if any person having narcotic in vehicle would stop it for checking purpose and two persons would succeeded to flee away in presence of police; that in fact no such incident as alleged has ever taken place; that the alleged recovery is not exclusively from the possession of applicant/accused but it has been foisted upon the applicant/accused and mala fide on the part of police cannot be ruled out; that the applicant/accused is behind the bars and no purpose would be served if he is kept in Jail for an indefinite period notwithstanding that the investigation is complete and applicant/accused is no more required for further investigation; that prima facie, the applicant/accused requires further inquiry. Learned counsel for the applicant/accused prayed for grant of bail to the applicant/accused.

4. On the other hand, learned A.P.G. Sindh has opposed the grant of bail to the applicant/accused on the ground that huge quantity of

narcotic/charas has been recovered from the possession of applicant/accused, as such, he does not deserve for concession of bail.

5. Heard and perused the record.

6. From the perusal of FIR, it appears that on 09.01.2023, the police of PS Matli while after patrolling at various places started snap checking of vehicles at Zardari Road Check Post, they got stopped a Corolla Car coming from Zardari Sajar Chang Road for checking having three persons in Car; out of them, the applicant/accused who was sitting at Driver seat was apprehended while rest two made their escape good. The police on checking of the Car found one white color plastic katta containing 50 big pieces of chars, which on weighing became 25 kilograms. Such huge quantity of chars recovered from the possession of applicant/accused cannot be foisted by the police when no element of enmity with police is alleged. Prima facie, no convincing reasons have been disclosed for false implication of the applicant/accused with such huge recovery of charas. It is very essential for the accused to constitute his case for bail. Since no ill will or enmity with police is alleged and as per amendment in the Control of Narcotic Substance Act, 1997 by the Act No.XX of 2022, the offense is punishable with imprisonment which may extend to life imprisonment but shall not be less than twenty years along with fine which shall not be less than eight hundred thousand rupees, which comes within the ambit of prohibitory clause of section 497 (1) Cr.P.C, therefore, in such circumstances at this stage, the applicant/accused does not deserve concession of bail.

7. In view of the above facts and circumstances, learned counsel for the applicant/accused has failed to make out the case for further inquiry as envisaged in subsection 2 of section 497 Cr.P.C. Consequently, instant criminal bail application is dismissed.

JUDGE