

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 1190 of 2023

Applicant : Abdul Salam s/o Fazal Ghani, through
Mr. Shoukat Ali Shahroz, Advocate.

Respondent : The State, through Zahoor Ahmed Shah,
Addl. Prosecutor General, Sindh.

Date of hearing : 22.06.2023
Date of order : 22.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Abdul Salam s/o Fazal Ghani, seeks post-arrest bail in Crime No. 45 of 2023 registered at P.S. AVCC, Karachi under section 9(1) 3 (C) of the Control of Narcotic Substances (Amendment) Act, 2022 (*the "Act"*). Earlier, his two applications for the same relief bearing No. 291 and 391 of 2023 were heard and dismissed by the learned Vth Addl. Sessions Judge, Karachi-Central vide orders dated 19.04.2023 and 27.05.2023, respectively.

2. As per F.I.R., on 10.04.2023 at 04:00 a.m., the applicant was arrested by A.S.I. Kashif Khan of P.S., AVCC/CIA, Karachi at Railway Phatak road, leading to Paposh Nagar, Karachi on being found in possession of 1200grams of charas, for which he was booked in the aforesaid F.I.R.

3. Heard, record perused.

4. Section 9 (1) of the Act provides punishments with imprisonment up to fourteen years and not less than nine years for possessing, importing or exporting and trafficking '*charas*' in contravention of sections 6, 7 and 8 of the Act for more than 1000 grams and up to 4999 grams in quantity. At the stage of bail, the lesser of two punishments is to be taken into consideration, as the quantum of punishment could only be decided by the trial Court after recording of evidence. Reference in this regard is made to the case of *Shahzore v. The state* (2006 YLR 3167).

5. There is no previous record of the applicant of involving in any crime. He is confined in judicial custody since day of his arrest. The law is very liberal especially when it is salutary principle of law that in the cases where the offences carrying lesser punishment which does not fall within the prohibitory clause of section 497, Cr.P.C. the grant of bail is a rule while its refusal is merely an exception.

6. Under the circumstances, the case of the applicant falls within the scope of bail as contemplated by Section 51 (2) of the Act. Accordingly, the instant application is allowed and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 100,000/- (*Rupees One Lac only*) and P.R. Bond in the like amount to the satisfaction of the trial Court.

JUDGE

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