

**IN THE HIGH COURT OF SINDH AT KARACHI****Crl. Bail Application No. 1954 of 2023**

Applicant : Muhammad Ali  
through Mr. Zahoor Ahmed, Advocate

Respondent : The State  
through Mr. Muhammad Iqbal Awan, Addl.P.G.

Date of hearing : 6<sup>th</sup> November, 2023

**ORDER**

**Omar Sial, J:** Mohammad Ali has sought post-arrest bail in crime number 280 of 2023 registered under section 9(1)(3)(c) of the Control of Narcotic Substances Act, 1997, at the Nazimabad police station. His earlier bail application was dismissed by the learned Sessions Judge, Karachi Central, on 23.08.2023.

2. S.I. Mohammad Irfan Anwar was on patrol duty on 05.07.2023 when he received information that the applicant, who was the son of a notorious drug peddler, was selling charas. The police party reached the identified spot and apprehended the applicant. From his possession, 2425 grams of charas were recovered.

3. Learned counsel has argued that section 103 Cr.P.C. was not followed; the applicant was arrested from his home on 05.07.2023, and that nothing was recovered from his possession; that a false case has been filed as the father of the applicant previously had been filing petitions and complaints against the police officials of the Nazimabad police station. In support of his argument, he had put on record a letter written by the applicant's mother to all and sundry and courier receipts showing that the letter had been couriered. The learned Additional Prosecutor General supported the impugned order. I have heard the learned counsels.

4. Section 25 of the CNS Act excludes the applicability of section 103 Cr.P.C. in cases falling within the ambit of the narcotics legislation. Counsel could not explain why the police force of the Nazimabad police station was constantly harassing the family of the applicant, for which the father of the applicant had filed the petition and complaints. He did not also deny that the applicant's father has several narcotic cases registered against him. Given the preceding, police malafide in registering this case is not apparent prima facie. The learned trial court will be better positioned to decide the truth after evidence is led at trial. As far as the letter written by the applicant's mother is concerned, prima facie, it was written on the same day the applicant's arrest was shown. It cannot be conclusively discarded at this preliminary stage that the letter was not a pre-emptive tactic deployed by the applicant's family.

5. Upon a tentative assessment, it seems that the applicant was caught red-handed with a sizeable quantity of a substance, which the chemical analyser has opined to be charas – a substance the possession of which exposes the possessor to nine to 14 years imprisonment. No malafide on the part of the police is apparent on the face of the record.

6. Given the above, the bail is dismissed.

JUDGE