

**IN THE HIGH COURT OF SINDH AT KARACHI****Crl. Bail Application No. 2373 of 2023**

Applicant : Ameerullah  
through Mr. Ajab Khan Khattak, Advocate

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

Date of hearing : 13<sup>th</sup> November, 2023

**ORDER**

**Omar Sial, J:** Ameerullah has sought pre-arrest bail in crime number 97 of 2023, registered under sections 6, 9(6)(c) and 6,(9)(2)(4) of the Control of Narcotic Substances Act, 2022. A bail application he filed earlier was dismissed on 12.10.2023 by the learned 6<sup>th</sup> Additional Sessions Judge, Karachi South.

2. On 02.06.2023, a police party led by S.I. Ghulam Yasin was on patrol duty when it received information that two persons, identified as Hussain and Ameen Hussain, were selling narcotics at a specified place. The police party reached the spot. Two men, holding plastic shopping bags, threw them on the ground and ran away, whereas one whose name was Abid was apprehended. Abid had 510 grams of heroin, and he was arrested. Abid revealed that Mohammad Hussain and Ameerullah had thrown the two plastic shopping bags on the ground. 105 grams and 260 grams, respectively, of methamphetamine were recovered from those plastic bags.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General. My observations and findings are as follows.

4. The only evidence against the applicant at this stage is the exculpatory statement by the arrested accused, Abid. Per se, this might not be sufficient to drive home a conviction. The learned trial court was swayed

by the fact that the applicant has a crime record. He has two cases against him, one under the gutka/mawa legislation and another under section 354 P.P.C. According to the learned counsel for the applicant, the reason why the applicant has been included in this case is the malafide of the local police. This may or may not be correct. However, keeping in view that recovery has not been effected from the applicant and the punishment for possessing 260 grams of methamphetamine falls within the non-prohibitory clause of section 497 Cr.P.C. (three to five years in prison), no purpose will be served by keeping the applicant in jail. I am inclined to grant him the benefit of possible malafide.

5. The interim pre-arrest bail granted to the applicant earlier is confirmed; however, the surety amount is enhanced to Rs. 300,000. The surety deposited earlier by the applicant may be adjusted against the enhanced surety. As another condition of bail, the applicant is directed to fully cooperate with the investigating officer, failing which the concession of bail granted herein may be recalled by the learned trial court itself.

JUDGE