

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 2295 of 2023

Date _____ Order with the signature of Judge _____

For the hearing of bail application:

21-11-2023

Mr. Sameer Hussain Samo, Advocate for the applicant
Mr. Muhammad Iqbal Awan, Additional Prosecutor General Sindh

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Omar Sial, J: Applicant Abdul Nasir Khan, son of Muhammad Isa Khan, has sought pre-arrest bail in crime number 50 of 2023 registered under section 9(1) 3-E of Control of Narcotic Substances Act, 1997 at Ibrahim Hyderi, Karachi police station. Earlier, his application seeking bail was dismissed on 27.09.2023 by the learned 4th Additional Sessions Judge/Special Judge, CNS, Malir Karachi.

2. Facts of the case are that the F.I.R. mentioned above was lodged by S.I. Muhammad Younus Jat on 09.02.2023. He recorded that on the same day, he, along with the police party, was on patrolling duty. While patrolling on receipt of spy information at about 1.30 AM at Rarhi Road, Ibrahim Hyderi, they gave a signal to one rickshaw to stop; on seeing the police party, the driver stopped the rickshaw and fled away from there, the person sitting on the rear seat was apprehended who disclosed his name as Abdul Nasir Khan, and the name of his companion as Jalil Ahmed who made his escape good from there. Upon searching, 40 packets of charas weighing 40 kg, kept in one blue plastic bag on the rear seat of the rickshaw, were recovered.

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

4. The learned counsel or the applicant has argued that section 103 Cr.P.C. was not complied with; the applicant does not have a crime record, he has been in custody for eight months, and that recovery was effected from secrete cavities of rickshaw and not from the applicant. Learned APG

has argued that a very large consignment of charas has been recovered from the applicant and that the said charas was found on the rear seat of the rickshaw where the applicant was sitting. It was not hidden in any secret cavity; thus, the learned counsel's argument that the applicant did not know of the presence of the charas carries little weight.

5. The learned counsel has not denied the recovery of the charas from the vehicle. The applicant was the only person in the rickshaw, and the charas was lying on the rear seat where the applicant was sitting. Prima facie, the requirement of conscious possession was satisfied. No reason has been given why the police would foist such a large quantity of charas on the applicant. Section 25 CNS Act, 1997 ousts the applicability of section 103 Cr.P.C. in cases falling within the ambit of that legislation. 6. Upon a tentative assessment, it appears that the applicant was apprehended red-handed with 40 kilograms of a substance the chemical laboratory has opined to be charas. The offence with which the applicant is charged carries a potential capital sentence. The learned counsel has raised no ground that would merit an interference with the impugned order.

6. The bail application stands dismissed.

JUDGE

Amjad PS