

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 252 of 2023

Date Order with signature of Judge

For hearing of bail application

24th July 2023

Ms. Farzana Abbasi advocate for the applicant.

Ms. Abida Parveen Channar Special Prosecutor ANF a/w
SI/Investigating Officer Muhammad Saleem.

Salahuddin Panhwar, J.- It is alleged that on spy information, the applicant was apprehended by ANF officials and allegedly recovered 11 K.Gs charas, hence instant case was registered against him.

2. After having refused bail by learned trial Court, the applicant has approached this Court by preferring the instant bail application.

3. Learned counsel for the applicant, inter alia, contended that the applicant is innocent and has been falsely implicated by the ANF in the present case; that nothing has been recovered from the possession of the applicant; that though it was a case of spy information, but no private person was associated to act as witness; that all the prosecution witnesses are ANF officials and whole quantity of alleged recovered charas has not been sent to the chemical examiner and only representative samples have been sent for chemical examination, whose safe custody is also questionable. Lastly it is contended that applicant is behind the bar since the date of his arrest without any progress, therefore, the applicant is entitled to be released on bail. **Learned counsel for the applicant relied upon the cases reported as 2007 YLR 3125, 2022 MLD 1538, 1641 SCMR 2022, PLJ 2021 Cr.C.1695, SBLR 2018 Sindh 1421, 2019 YLR 954, 2019 PCr. LJ Note 134m PLJ 2010 Cr.C (Lahore(586 (DB) and 2021 SCMR 63.**

4. In contra, learned Special Prosecutor ANF while opposing the bail application contended that the applicant was apprehended with huge

quantity of 11 KGs Charas and such offence is against the society at large hence, applicant is not entitled to be released on bail.

5. Heard and perused the record.

6. Record reflects that the applicant was caught red handed with a huge amount of charas; that such a large quantity of charas was unlikely to have been foisted on the applicant especially when no evidence of enmity in terms of malafide or ulterior motive is alleged by him, which might have actuated the ANF Officials to falsely implicate the applicant in the instant crime; that representative samples were taken out from the alleged recovered charas, sealed separately and were sent to the chemical examiner, however, as per challan, positive report is annexed. Learned counsel for the applicant has not been able to show that the representative samples sent to the chemical examiner were not found satisfactorily sealed. In any event, such like cases are heinous in nature and are offences against society at large. In the case of **Socha Gul v. The State (SCMR 2015 1077)**, the Apex Court has held that *"It is pertinent to mention here that offences punishable under C.N.S Act of 1997 are by its nature heinous and considered to be the offences against the society at large and it is for this reason that the statute itself has provided a note of caution under section 51 of C.N.S Act of 1997 before enlarging an accused on bail in the ordinary course."*

7. With regard to the non-association of private persons, Section 25 of the CNS Act exempted their presence in narcotics cases even otherwise the evidence of ANF officials is also as good as any other citizen. So far as claim of false implication, this issue cannot be attended without going beyond the barriers of tentative assessment, an exercise prohibited by law at bail stage. The case laws cited by the learned counsel for the applicant, in support of his submissions, the facts and circumstances of the said cases are distinct and different from the present case, therefore, none of the precedents cited by the learned counsel are helpful to the applicant.

9. In the mentioned circumstances, I do not find the applicant/accused entitled for bail at this stage of case, hence this bail application is dismissed.

10. The observations made hereinabove are tentative in nature and the trial court shall not be influenced with the same while deciding the case on merits.

JUDGE

Sajid