

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S- 604 of 2024

28.06.2024.

Mr. Hemandas S. Sanghani, Advocate for applicant.
Ms. Rameshan Oad, A.P.G for State.

ORDER

ZAFAR AHMED RAJPUT, J.- Through instant Criminal Bail Application, applicant / accused Umar Daraz s/o Ghulam Rasool seeks post-arrest bail in Crime No.168/2024 registered at Police Station Badin under Section 9 (C) of the Control of Narcotic Substances (Amendment) Act, 2022 (***the Act***). His earlier application for the same relief bearing Cr.B.A.No.599 of 2024 was heard and dismissed by the learned Sessions Judge, Badin vide order dated 10.05.2024.

2. As per FIR, on 14.04.2024 at about 1300 hours, applicant / accused was arrested by SIP Atta Muhammad Junejo from Hyderabad bypass road near Family Planning Hospital, Badin Town on being found in possession of 1005 grams charas, for which he was booked in the aforesaid FIR.

3. Heard, record perused.

4. Section 9 (1) of the Act provides punishment with imprisonment up to fourteen years and not less than nine years for possessing, importing, or exporting and trafficking '*charas*' in contravention of Section 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 to *Shahzore v. The State* (2006 YLR 3167).

5. Admittedly there is delay of about 10 days in sending parcel to the Chemical Examiner for examination and report. No explanation is available on record for such delay. Failure to follow Rule 4 & 5 of Control of Narcotics Substances (Government Analysts) Rule, 2001 has made the case against the applicant as of further inquiry. There is no previous record of the applicant of involving in any crime. He is confined in jail since the day of his arrest. The challan has already been submitted and the applicant / accused is no more required for further investigation. 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 these circumstances, the case of applicant falls within the scope of bail as contemplated by Section 51 (2) of the Act. Accordingly, instant bail application is allowed and in result thereof the applicant is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and P.R Bond in the like amount to the satisfaction of the trial Court.

JUDGE