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**PRESENTED**

02-02-2013  
24/2/2013  
Dy. Registrar (Judl.)

IN THE HIGH COURT OF SINDH AT KARACHI. 821

{ Original Appellate Jurisdiction }

Criminal Bail Application No. 331 of 2013

Ashraf s/o Wahid Dino,  
By caste Amro, adult Muslim,  
Resident of village Rahab Amro,  
Taluka Sujjawal,  
District Thatta.

Presently confined in District Prison,  
Badin.....Applicant/Accused.

Versus.

The State.....Respondent.

FIR NO.10/2013  
Police Station, Sujjawal,  
District, Thatta.  
Offence Under Section 9c CNS Act, 1997

4-13  
of The  
General Sindh  
Karachi

BAIL APPLICATION UNDER SECTION 497 CR.PC.

It is respectfully prayed on behalf of the above named applicant / accused  
that this Honorable Court may graciously be pleased to grant him bail,  
on consideration of the following facts and grounds.

REGISTRAR  
JUDICIAL BRANCH  
COURT OF SINDH  
KARACHI

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail A. No. 331 of 2013

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Date	Order with signature of Judge
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For hearing:

13/05/2013:

Mr. Ghulam Rasool Mangi, Advocate for the applicant.

Mr. Abdullah Rajput, APG for the State.  
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Applicant/accused Ashraf seeks bail in Crime No.10 of 2013 registered against him at P.S. Sujawal on 8.2.2013 under Section 9(c) of Control of Narcotic Substances Act, 1997.

Brief facts of the prosecution case are that on 8.2.2013 Inspector/SHO Ali Muhammad of P.S. Sujawal left the police station alongwith his subordinate staff for patrolling, during patrolling he received spy information that accused Ashraf was selling Charras at his village, on such information, police party proceeded to the pointed place and held Nakabandi on the road at Samma Curve, after some time, one person appeared on road from Sujawal side on the motorcycle, his motorcycle was stopped, he was caught hold, his name was enquired, he disclosed his name as Ashraf, resident of Village Rahab Amro, Taluka Sujawal, his personal search was conducted in presence of mashirs, five pieces of Charras were recovered from his possession, Charras was weighed which came to be 1040 grams, cash of Rs.200/- was also recovered, motorcycle was seized and after usual investigation

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challan was submitted under Section 9(c) of Control of Narcotic Substances Act, 1997.

Bail application was moved on behalf of the applicant/accused before the learned Sessions/Special Judge Control of Narcotic Substances, Thatta. The same was rejected vide order dated 28.2.2013. Thereafter, applicant has approached this Court.

Mr. Ghulam Rasool Mangi, learned counsel for the applicant/accused, has mainly contended that this is a border line case between Clauses (b) and (c) of Section 9 of the Control of Narcotic Substances Act, 1997, and yet it is to be determined that which offence has been committed by the applicant/accused. He has further submitted that case has been challaned and applicant is no more required for investigation. All the P.Ws. are police officials and there is no question of tampering with the evidence. Lastly it is contended that applicant has been involved falsely by police at the instance of local landlords. In support of his contentions, learned counsel for the applicant/accused has rightly relied upon the cases of (1) TAJ ALI KHAN VS. THE STATE (2004 YLR 439 Peshawar) and (2) MUHAMMAD JAHANGIR VS. THE STATE AND ANOTHER (2013 YLR 547).

Mr. Abdullah Rajput, learned Assistant Prosecutor General Sindh for the State, opposed the bail application on the ground that 1040 grams Charras has been recovered from the possession of the accused and alleged offence is punishable for death or imprisonment for life.

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I am inclined to grant bail to the applicant/accused for the reasons that 1040 grams Charras were recovered from the possession of the applicant/accused and yet it is to be determined whether offence would fall under Clause (b) or (c) of Section 9 of the Control of Narcotic Substances Act, 1997. Apparently, this is a border line case. After investigation challan has already been submitted and applicant/accused is no more required for investigation. All the prosecution witnesses are police officials, as such, there is no question of tampering with evidence. There is nothing on record that applicant is previous convict in similar offences. Enmity with police has also been alleged. A case for grant of bail to the applicant/accused is made out. The applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- (Rupees one lac) and P.R. bond in the like amount to the satisfaction of trial Court.

Needless to mention here that observations made hereinabove are tentative in nature, learned trial Court shall not be influenced by such observations while deciding the case on merits.

13.5.2013  
JUDGE

S.Akhtar