

5. Learned counsel for the applicant, *inter alia*, contends that applicant is innocent and has been falsely dragged into the case due to malafide of police officials; that some person forcibly entered into house and took the applicant/accused and said that after investigation they will release the applicant; nothing has been recovered from his possession and the alleged narcotics have been foisted upon him; that no efforts were made by the complainant to associate an independent person to witness the arrest and recovery proceedings; that complainant failed to send charas for chemical examination; that investigation is completed; all the prosecution witnesses are police officials hence there is no question of tampering with the prosecution evidence. He lastly contended that applicant is behind the bars since his arrest i.e. 11.02.2022 and hence he prayed for grant of bail to the applicant/accused.

6. Learned Additional Prosecutor General Sindh opposed this bail application on the ground that huge quantity of charas has been effected from the applicant; the offence with which the applicant is charged is against the society; that no enmity or ill-will has been pointed out against the police officials by the defence counsel, therefore, he prayed for dismissal of the instant bail application.

6. Heard and perused the record.

7. The offence with which the applicant is charged is an offence against society at large and is heinous in nature. Since the instant case involves *huge* quantity of narcotics and to have *criterion* for grant of bail in such like cases, it would be relevant to refer the case of *Socha Gul v. State* 2015 SCMR 1077 wherein it is *categorically* observed as:

“8. 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.”

8. Here in this case, applicant was arrested and huge quantity of narcotic substance was recovered from him which carries punishment of death or imprisonment for life; that prosecution witnesses have fully

supported the prosecution case and *prima facie* there has been placed nothing on record to establish any *mala fide* or serious *enmity* against such police officials. In absence of *substantial* proof, the plea of *enmity* legally cannot be entertained at bail stage because such like *plea* is readily available but to make it *substantial* shall require proof, which, needless to add, could not be done at bail stage. With regard to the contention of the learned counsel for the applicant that no private person of the locality was associated as a witness or *mashir*, it would suffice to say that in view of section 25 of the Control of Narcotic Substances Act, 1997 the applicability of section 103, Cr.P.C. has been excluded in the cases of recovery of narcotics. The defects or irregularities could well be agitated but during trial and not at bail-stage. Plea of applicant that *charas* was foisted upon him cannot be entertained at such stage as this fact could only be ascertained after recording of evidence. Needless to add that any *plea* which requires *deeper* examination and comments of nature, likely to prejudice to *plea / case* of either defence or prosecution, must always be avoided at bail-stage because criterion for tentative assessment and evaluation of evidence are completely different from each other. Thus, tentative assessment of material available on record, *prima facie* does not lead to a conclusion that there are no *reasonable grounds* exist to believe it is a case of further enquiry.

9. In the case of *Muhammad Akhtar v. State & Ors* 2017 SCMR 161, the honourable Apex Court dismissed the bail while holding as:-

“2. The petitioner had been apprehended red-handed while in possession of *bhiki* (poast) weighing 30 kilograms and a sample of the recovered substance had subsequently been tested positive by the Chemical Examiner. The prosecution has relied upon statements of some prosecution witnesses who had witnessed the alleged recovery and apparently the said prosecution witnessed had **no ostensible reason to falsely implicate the petitioner** in a case of this nature. The case against the petitioner is **hit by section 51 of the Control of Narcotics Substances Act, 1997.** This petition is , therefore, dismissed and leave to appeal is refused.

10. In the mentioned circumstances, I do not find the applicant/accused entitled for bail at this stage of case. Accordingly, the bail plea is hereby dismissed. However, while parting the trial Court is directed to conclude the trial within a period of six months.

JUDGE

Sajid