

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-98 of 2025

Applicant: Hassan Son of Muhammad Altaf.
Through Mr. Gahi Khan Jatoi, Advocate.

Respondent: The State
Through Ms. Rameshan Oad, A.P.G along-with SIP / I.O Ghulam
Abbas Bajeer PS Qasimabad and ASI Liaquat Ali C.P Naseem
Nagar.

Date of hearing: 26.03.2025
Date of order: 26.03.2025

ORDER

Syed Fiaz ul Hassan Shah, J: Through instant bail application, above named applicant seeks his admission to post arrest bail in Crime No.03 of 2025 registered under section(s) 9-1 (C) CNS Amended Act 2022, with C.P. Naseem Nagar P.S Qasimabad. After the arrest applicant preferred his bail plea before the Court of II-Additional Sessions Judge / Special Judge CNS, Hyderabad vide Special Bail Application No.11 of 2025 (Re-Hassan Vs. The State) and same was dismissed vide impugned order dated 09.01.2025; hence, instant bail application has been maintained.

2. Since the facts of prosecution case are already mentioned in F.I.R as well as impugned order passed by the II-Additional Sessions Judge / Special Judge CNS, Hyderabad, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant contends that on 05.01.2025 at 1800 hours FIR No.02 of 2025 was registered with regard to offence alleged committed on 05.01.2025 at about 1700 hours. Thereafter, the police has subsequently registered another FIR No.03 of 2025 on 05.01.2025 at about 1830 hours for the same occurrence. It has overtly mentioned in the FIR that is the same occurrence allegedly committed on 05.01.2025 at 1700 hours. He further contends that although the property is shown to be recovered 2000 grams, for which, the lesser punishment of nine years is to be considered at bail

stage and if the Court found the opinion that he supposed to be treated for the purposes of bail application if the case of applicant falls within the non-prohibitory clause.

4. On the other hand, the learned APG is strongly opposed bail application and stated that accused has promptly been arrested and memorandum of recoveries and seizure has been prepared with regard to case property details provided in earlier FIR No.02 of 2025 that is *Ajina Moto* and subsequently FIR No.03 of 2025 was registered for the recovery of Chars within the same memorandum.

5. I have heard the learned counsel for the applicant as well as learned APG with the assistance of I.O present in Court and perused the record.

6. I have seen the first FIR bearing No.02 of 2025 registered at C.P. Naseem Nagar on 05.01.2025 at 1800 hours wherein date and time of occurrence shown as 05.01.2025 at 1700 hours while second FIR No.03 of 2025 (the applicant seeks bail in this crime) registered on the same date at 1830 hours for the same occurrence and it is categorically written that the date and time is the same as has been mentioned in the earlier FIR No.02 of 2025. I am not inspired from the arguments of learned APG that in Narcotic cases separate FIR is registered, in view of the dicta laid down and the principles settled by larger bench of the Hon'ble Supreme Court of Pakistan in case of *Sughra Bibi* reported as PLD 2018 Supreme Court 595. It is astonishing once a joint memorandum of recovery has been drafted by the police that together with the recovery of 2 KG Chars in the said FIR No.02 of 2025 as well as *Ajina Moto* which articles punishable under sections 269 and 271 PPC it ought not to be registered but subsequent FIR No.03 of 2025 for the same occurrence and same date and time specifically when the police officials itself has mentioned the subject property as Chars as well as it's accurate rate of 2 KG. It is settled principle for granting bail or otherwise that while deciding the bail lesser punishment should be taken into consideration. In the present case the weightage of case property is 2000 grams for which minimum sentence is provided nine years and while maximum sentence is provided fourteen years under the Control of Narcotic Substances Act 1997, therefore, the applicant has made out a case from this Court besides, the challan has been submitted before the Trial Court and applicant / accused is no more required for investigation purposes and keeping incarceration to applicant for indefinite period until the conclusion of trial without any reason or justification is inaccurate on the question of liberty of the citizens. It is not the case of prosecution, even otherwise, that the applicant will temper or damage the case property, therefore, the applicant is entitled for bail. In view of the above, the learned counsel for the applicant has made out a case for grant of bail, therefore, the bail application is **allowed**. Consequently, the applicant is granted

concession of post arrest bail subject to furnishing his solvent surety in sum of Rs.200,000/- and P.R bond in the like amount, to the satisfaction of Trial Court.

7. Needless to say that any finding given or the observations recorded herein-above, it is only for the purpose of deciding this bail application, which will not affect the merits of case before the Trial Court in any manner and the Trial Court will try the case without being influenced from any observation.

J U D G E

Muhammad Danish