

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.5-39 of 2025

Applicant: Abdul Karim alias Shahnawaz alias Katri son of
Muhammad Umar, through Mr. Tahir Hussain
Laghari, Advocate.

Respondent: The State through Mr. Siraj Ahmed Bhatti,
Assistant Prosecutor General, Sindh.

Date of hearing: 03.02.2025

Date of Order: 13.02.2025

ORDER

ABDUL HAMID BHURGRI J:- Through instant criminal bail application, the applicant/accused above named seeks his post-arrest bail in Crime No.153 of 2024, under sections 9-C of CNS Act, 1997 at P.S. Tande Ghulam Ali. This follows the rejection of his bail application by the learned Sessions Judge, Badin vide order dated 08.11.2024.

2. The Prosecution outlines that on 28.10.2024, the complainant ASI Muhammad Rafique of PS Tande Ghulam Ali, alongside his subordinate staff, intercepted the applicant during the patrol. It is alleged that 1070 gram of Charas were seized from his possession, with the seizure meticulously documented through a Makhtuma in the presence of witnesses. The confiscated contraband and the accused were subsequently transported to the relevant Police station, where the FIR was lodged.

3. The learned counsel for the applicant submits that the allegations are fabricated, concocted by the police to demonstrate their efficiency to higher authorities. The applicant challenges the validity of the seizure, citing the absence of independent witnesses and asserting that the recovery was forced upon him. Additionally, it is argued that the investigation is complete, and the applicant is no longer required for further inquiry. The counsel emphasizes the lack of photographic evidence corroborating the recovery site, ascertaining that such procedural lacunae necessitate further inquiry. Reliance has been placed on precedents, including 2022 P.Cr.L.J. Note-06, 2024 SCMR 934, 2001 MLD 1731 and 2021 P.Cr.L.J. 403 to substantiate the request for bail.

4. Conversely, the learned Additional Prosecutor General (APG) contends that the substantial quantity of Narcotics seized renders the applicant's plea untenable. The APG highlights that 1070 grams Charas, inherently dangerous to human lives, were recovered directly from the Applicant's possession. He further argued that applicant is habitual offender, which is evident from his criminal record. It is further argued that such heinous crime warrant stringent approach to bail.

5. After hearing the argument and meticulous perusal of the case record, it is evident that the contraband recovered comprising two substantial pieces and seven smaller pieces of Charas was found in the exclusive possession of the applicant. The material seized was subjected to chemical analysis, confirming its Narcotic nature. Witness statements under Section 161 Cr.PC, substantiate the prosecution narrative. The absence of enmity or malice between the applicant and the complainant underscores the credibility of the recovery.

6. Given the gravity of the offense, which jeopardizes public welfare and poses substantial harm to society, the Court emphasizes that bail cannot be claimed as a matter of right in cases involving narcotics of this magnitude. Furthermore, the prosecution submission regarding the applicant's prior criminal record strengthens the assertion of habitual delinquency, as evidenced by antecedents involving offences.

7. In view of the foregoing this application bail is devoid of merit is hereby dismissed. Though, the facts of case laws so relied upon by the learned counsel for applicant are quite distinguishable from the facts of present case. However, it is expected that the learned trial court to expeditious the proceedings and endeavor to conclude the trial, preferably within shortest possible time. The observations recorded herein are tentative which confined to the adjudication by this bail application. They shall neither influence the Trial Court's determination on the merits of the case nor prejudice his final verdict. Bail application is disposed of accordingly.

Hamid Ali
JUDGE