

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

Cr.Bail.Appl.No.S- 425 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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15.06.2017.

Syed Muhammad Waseem Shah, Advocate for applicant.
Mr. Shahid Ahmed Shaikh, A.P.G. for the State alongwith SIP Muhammad Riaz on behalf of SSP Hyderabad.

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Through instant bail application, applicant Azhar Ali seeks post arrest bail in Crime No.25/2017 registered at Police Station Makki Shah Hyderabad, u/s 9 (b) of C.N.S. Act, 1997.

2. Precisely relevant facts are that complainant SIP Abdul Karim Chachar of PS Makki Shah lodged FIR on behalf of the State, alleging therein that on 05.04.2017 he arrested the applicant in crime No.24/2017 u/s 9-C of CNS Act and found him in possession of one white colour plastic shopper containing heroin powder which was weighed on electronic scale and became 120 grams. FIR was registered against the applicant. After usual investigation they were sent up for trial.

3. Learned counsel for the applicants *inter alia* contends that recovery affected from the applicant is 120 grams heroin; chemical report is delayed; no independent person has been cited as witness; applicant has no previous criminal record; 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 bar since last more than 02 months.

4. Learned A.P.G. opposed this application on the ground that this is a crime against society, however he concedes that there is no criminal history of applicant.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 120 grams heroin. No private witnesses have been associated hence the

complainant party *least* could have made an attempt to associate *private* mashirs from way or pointed place; there is a delay in sending the representative part for chemical examination which (*delay*) would also be required an explanation by prosecution hence making a room for further probe. Applicant has been in continuous custody since last more than 02 months and is no more required for any purpose of investigation nor the prosecution has claimed any exceptional circumstance which could justify keeping the applicant behind the bars for an indefinite period. Moreover, prosecution has not claimed that the applicant is previously involved in same nature of the cases. All the prosecution witnesses are police officials hence there is no question of tampering with the evidence. Therefore, keeping *peculiar* facts of instant case; continuous detention of more than 02 months as well *minimum* punishment, which *normally* may be considered while dealing with bail plea, I am of the view that scale tilts in favour of the applicant for grant of bail as no *useful* purpose is likely to be served with further detention of applicant pending determination of his guilt.

06. Keeping in view the above given circumstances, *prima facie*, applicant has succeeded to bring his case within the purview of subsection 2 of section 497 Cr.P.C, for this reason, he is admitted to post arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees one lac) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE

Tufail