

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

Cr. Bail Application No.S-488 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>31.08.2017.</u>	For hearing.
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Mr. Khadim Hussain Soomro, Advocate for the applicant.
Mr. Shahid Ahmed Shaikh, D.P.G for the State.

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ABDUL MAALIK GADDI,J- Having remained un-successful in obtaining his release on bail from the trial Court in Crime No. 96 of 2017, registered under section 9 (c) of CNS Act, 1997 at Police Station, Airport Nawabshah, now the applicant Anees-ur-Rehman s/o Muhammad Tagial is seeking his release on bail through instant bail application.

2. Necessary facts for disposal of this bail application are that on 4.6.2017, when the complainant alongwith his subordinate staff namely ASI Sikandar Ali, ASI Shahzad Khan, PC Ghulam Nabi and PC Ali Nazeer were on patrolling duty, during patrolling when they reached at Warr road adjoining Airport gateNo.2 at about 1400 hours, they saw the present applicant in suspected condition and arrested him. It is further alleged that during his personal search, 1900 grams of charas has been recovered from his possession alongwith rupees 400/-, hence mashirnama was prepared than and there.

3. It is argued by the learned counsel for the applicant that he is innocent and has falsely been involved in this case; that actually applicant/accused belongs to Ratodero, District Larkana, he came to take the prayers from his spiritual leader, who resides at 60 Mile and to give him goat, when he reached at 60 Mile found a police mobile standing on the road, from which one ASI stepped down and asking irrelevant question about the goat, on which there was exchange of hot words, therefore, the applicant was arrested alongwith his goat and he was kept in illegal detention for two days, when his brother approached to the police for his release, he was shown arrested in

the present case; that applicant/accused being a young man has never ever been involved in such type of case and there is no evidence against the applicant for selling the charas as alleged in the F.I.R. by the complainant; that entire charas was sent to the chemical examiner without separating the sample from it with malafide intention, because the charas was foisted upon the applicant/accused; that all the PWs are police officials and no public person has been cited as witness in this case, therefore, there is violation of mandatory provision of section 103, Cr.P.C; that there is no mentioned in the F.I.R. that how the property was weighed; that there is delay of 11 days for sending the sample to the chemical examiner, therefore, the case of applicant requires further inquiry, as there is no apprehension of tampering with the evidence or absconsion of the applicant/accused. Lastly, he prayed for grant of bail. In support of his contention, he has relied upon the case of MAKHDOOM SAJJAD v. STATE [SBLR 2014 Sindh 1514].

4. On the other hand, learned D.P.G. for the State has opposed this bail application on the ground that the name of the applicant/accused is appearing in the F.I.R, but he submits that the alleged recovery was sent to the chemical examiner after delay of 11 days, for which no explanation has been furnished.

5. I have given my anxious thoughts to the contention raised at the bar and have gone through police papers so available before me.

6. Admittedly, the alleged recovery of contraband is charas weighing about 1900 grams; no private mashir has been associated despite of the fact that the place from where the applicant was arrested is populated area, no explanation has been given in this regard. It has been brought on record that the incident took place on 4.6.2017, but the recovered charas was sent to the chemical examiner on 15.6.2017 after delay of about 11 days, but no explanation has been furnished by the prosecution. It has also been brought on record that investigation has been conducted by the I.O, who is complainant in this case whether his investigation can be safely relied upon for conviction of the applicant/accused, therefore, at this stage, the case of applicant requires further probe on this score also.

7. Keeping in view the above facts and circumstances, I am of the opinion that the case of applicant is one of further inquiry, therefore, the applicant is entitled for grant of bail. Accordingly, bail is granted to the applicant subject to his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and PR bond in the like amount, to the satisfaction of trial Court.

8. Needless to mention here that the observations made herein above are tentative in nature and shall not affect the merits of the case.

The bail application stands disposed of in the above terms.

JUDGE.

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