

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Crl. Bail Application No.1621 of 2016**

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Date Order with signature of Judge

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For hearing of bail application.

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**27.03.2017**

Mr. Sardar Sheeraz Anjum, Advocate for the applicant.  
Ms. Rahat Ehsan, D.P.G.

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**NAZAR AKBAR, J:-** Applicant/accused Shahid son of Bachoo seeks bail after arrest in Crime No.185/2016, registered at P.S. Ibrahim Hydri, for offences under Sections 6/9(C) CNS Act.

2. Brief facts of the case are that Complainant ASI Ali Dost of P.S Ibrahim Hydri, Karachi lodged FIR No.185/2016 on 08.10.2016 at 1930 hours and alleged therein that he alongwith other officials left PS in official vehicle bearing No.SPD-841 for patrolling and during patrolling received spy information that one person was sitting in suspicious condition alongwith a polythene bagh behind TCF School, MM Alam Colony, Ibrahim Haideri. On such information he reached at the spot at about 1830 hours and on pointation of spy apprehended a person, who on inquiry, disclosed his name as Shahid son of Bachoo, his search was conducted in presence of private witnesses Shahabuddin, ASI Mohammad Nawaz and ASI Abdul Majeed, the accused was having a white color polythene bag in his hand, containing one piece of Charas, which was weighed at the spit through computerized scale and found 1160 grams and upon further personal search one 30 bore pistol without number with 5 live bullets recovered from the fold of his wearing trouser, hence above FIR was lodged.

3. It appears that the bail application was moved on behalf of applicant/accused before the Special Court-II (C.N.S) Karachi, the same was rejected by him vide order dated 04.11.2016. Thereafter, applicant/accused approached this Court.

4. Learned counsel for the applicant has contended that the complainant/SIP Ali Dost Mugheri, who claimed to has arrested the accused in FIR No.185/2016, kept him in illegal custody for more

than two days even before the date of incident and on the complaint of wife of the accused Shahid Khaskheli, DIG East Zone has already suspended ASI Ali Dost Mugheri vide order dated 13<sup>th</sup> October, 2016. Photostat copy of this order has been placed on record. He has further contended that the accused was implicated not only in this false case of having possession of charas but also in another case under Section 23(1)(a) of Arms Ordinance, 2013 at the same time and only one Mushirnana was prepared for the recovery of both the charas and the revolver. The accused has already been granted bail in the case registered under Section 23(1)(a) of the Arms Ordinance, 2013.

5. He has further contended that on account of the complaint filed by the wife of accused, the suspended ASI Ali Dost Mugheri has falsely implicated the applicant in both cases. He further contended that despite dubious manner of arrest and recovery of charas and revolver the case of alleged recovery of 1160 grams charas is borderline case and in several borderline cases the Courts have been pleased to grant bail to the accused. He has relied on the case reported as 2003 P.Cr.L.J 540, 2011 MLD 365 and 2006 P.Cr.L.J 726.

6. Learned counsel for the State opposed the bail application on the sole ground that the accused has been convicted in a case of possession of heroin. However she admitted that the applicant has already been granted bail in the case under Section 23(1)(a) of the Arms Ordinance, 2013.

7. I have considered the contentions raised by the respective counsel for the parties and my observations are as follows:-

- i). At the time of arrest of accused the police has received a spy information that the applicant was sitting at a place in a suspicious manner and it is not cleared that how long it took for the police to act on the spy information.
- ii). Apparently there is no allegation of an attempt to run away from the scene when four policemen were approaching the applicant before arrival of police mobile which has started patrolling around the same time the spy information was received.

- iii). The information was given to the police mobile and the accused was already apprehended by four policemen when mobile reached there.
- iv). The alleged piece of charas was found in a shopping bag in the hands of the applicant and he did not even throw it away on seeing the police even if he was not in a position to run away.
- v). The availability of computerized balance to weight the quantity of charas recovered from the alleged white plastic shopping bag in the hands of the accused must have some margin of error and, therefore, exact weight of 1160 grams was correct or not has been enquired into.
- vi) The date of suspension of ASI Ali Dost Mugheri on the complaint of wife of applicant, the complaint for mishandling the case of the accused Shahid Khaskheli and the date of FIR are same i.e **08.10.2016** which has raised a question mark on the credibility of prosecution story.

In view of the above, Applicant/accused Shahid son of Bachoo is admitted to bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Two Hundred Thousands), and P.R bond in the like amount to the satisfaction of trial Court.

**J U D G E**