

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI,**  
Cr.Bail.Appl.No.298 of 2018.

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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For hearing of bail application.

11.04.2018.

Mr. Tahir Rehman Tanoli, Advocate for Applicant.

Mr. Abrar Ali Khichi, Deputy P.G. Sindh.

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Through instant bail application, applicant Awais Nawaz S/o. Ali Nawaz seeks post arrest bail in Crime No.17 of 2018 registered at Police Station Ferozabad for offence u/s 6/9 (c), of C.N.S. Act, 1997.

2.      Precisely, relevant facts of the case are that on 09.01.2018 police party of P.S. Ferozabad, headed by Muhammad Rahim, was busy in patrolling of the area. During patrolling he saw a person standing on the footpath in suspicious condition, who on seeing police party tried run away but the police party succeeded in apprehending him, during his search police recovered a green colour polythene bag containing pieces of charas which was weighed and found to be 3700 grams. He arrested the accused and sealed the recovered property on the spot in presence of mashirs and then brought him and the recovered property at police station where FIR was lodged on behalf of State. After usual investigation he was sent up for trial.

3.      Learned counsel for the applicant *inter alia* contends that recovery affected from the applicant is 3700 grams charas; chemical report is delayed; applicant is not previously involved in same nature of the cases; no independent person has been cited as witness; 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 three months. He has relied upon case law reported as 2017 YLR 322 & 2014 MLD 723.

4. Learned D.P.G. while opposing this application, has contended that this is a crime against society, hence, he is not entitled for concession of bail.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 3700 grams charas. No private witness has been associated despite the place of incident was a busy place, hence the complainant party *least* could have made an attempt to associate *private* mashirs from the place of incident; which makes a room for further probe. Besides, applicant has been in continuous custody since last more than three 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 three 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 his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand Only) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE