

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI,
Cr.B.A.No.386 of 2018.

DATE ORDER WITH SIGNATURE OF JUDGE

1. For order on MA No. 3297 of 2018.
2. For hearing of bail application.

26.04.2018.

M/s. Muhammad Safdar and Rohila Nazar, Advocates for Applicants.

Mr. Zahoor Shah, DPG.

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Through instant bail application, applicant Abid Hussain son of Nazir Hussain, seeks post arrest bail in Crime No.46 of 2018 registered at Police Station Preedy, Karachi, for offence punishable u/s 6/9 (c), of C.N.S. Act, 1997.

2. Precisely, relevant facts of the case are that on 25.01.2018 police party of P.S. Preedy, headed by ASI Muhammad Ilyas, on receipt of spy information apprehended the present applicant alongwith charas weighing about 2000 grams while his companion managed to escape leaving behind one polythene bag containing charas weighing 1010 grams.

3. After registration of FIR, the investigation was followed and in due course challan was submitted before the Court competent jurisdiction.

4. Learned counsel for the applicant *inter alia* contends that recovery affected from the applicant is 2000 grams charas; chemical report is delayed; applicant is not previously involved in same nature of the cases; 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.

5. 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.

6. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 2000 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. 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.

07. 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