

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI,**  
Cr.Bail.Appl.No.195 of 2018.

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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For hearing of bail application.

26.02.2018.

Mr. M. Qadir Khan, Advocate for Applicants.  
Mr. Muntazir Mehdi, Deputy P.G. Sindh.

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Through instant bail application, applicant Sabir S/o. Sanobar Khan seeks post arrest bail in Crime No.400 of 2017 registered at Police Station Pir Abad-West Karachi for offence u/s 6/9 (c), of C.N.S. Act, 1997.

2.      Precisely, relevant facts of the case are that on 19.10.2017 police party of P.S. Peer Abad, headed by ASI Alam Zaib, was busy in patrolling of the area in official mobile. During patrolling he received spy information that one person, engaged in selling of charas, is present at Keekar Maidan, Frontier Colony, Karachi. On receipt of information, he alongwith police party proceeded to the disclosed place and on the pointation of spy informer apprehended a person who was holding a shopper in his right hand. On enquiry the said person disclosed his name as Sabir S/o. Sanobar Khan. ASI Alam Zeb checked the shopper from which 2 kilograms of charas in shape of two slabs were recovered while Rs.200/- were also recovered from his front pocket being sale proceeds of charas. He arrested the accused and sealed the recovered property on the spot in presence of mashirs P.C. Faiz Muhammad and PC Rahim Bux 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 2000 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 four months.

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 2000 grams charas. No private witness has been associated despite prior spy information, hence the complainant party *least* could have made an attempt to associate *private* mashirs from way or pointed place; which makes a room for further probe. Besides, applicant has been in continuous custody since last more than four 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 four 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.50,000/- (Rupees fifty thousand only) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE