

applicant for an offence under **Section 2(S) 16 and 156(1)** of the Custom Act, 1969 punishable **under clause (8) & (89) of Sec. 156(1)** and **Section 157 ibid.** Learned counsel for the applicant contended that since the owner of vehicle and alleged smuggled goods have appeared before the Customs authority, the role of applicant is just that of a carrier who did not know that he was entrusted smuggled goods. She has relied on the case law reported as Lal Bux and 2 others. ..Vs.. The State (**1979 P.Cr. L.J 915**) and relevant portion at page 916 of this case law is as under:-

The fact remains that the applicants are charged with an offence which is not punishable with death or imprisonment for 10 years or more as offence under clause (89) of section 156 (1), Customs Act is punishable with maximum penalty of 6 years, imprisonment and fine. Thus there is no embargo under section 497, Cr. P. C. on the grant of bail to them. Additionally the Supreme Court has laid down that the case of a carrier cannot be treated on par with the actual smugglers even in the case of smuggling punishable under clause (F) of section 156 (1) of the Customs Act. Ordinary , therefore, the applicants would be entitled to bail.

3. To meet the objections of Prosecution that applicant is facing trial in similar crime learned counsel for the applicant has again referred to the same judgment and relevant portion is at page-917:

The pendency of a criminal prosecution against applicant Mazhar by itself is also no consideration for the refusal of bail to him in these proceedings. If the prosecution considers that he has misused the concession of bail in the previous case, it is always open to them on proper material to seek the cancellation of bail in that case under section 497, clause (5) of the Cr.P.C.

4. In view of the above facts and circumstances, this carrier/ applicant was granted bail by short order. These are the reasons for short order dated **14.01.2019.**

JUDGE

Karachi
Dated:15.01.2019

SM