

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail Application No.238 of 2019

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

26.03.2019

Mr. Shahid Nawaz Khan Niazi, advocate for the applicant.
Ms. Seema Zaidi, D.P.G.

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NAZAR AKBAR, J.- The applicant/accused is facing trial in Crime No.509/2018 registered at P.S Ibrahim Hyderi under Section **6/9-C CNS Act, 1997**. After failing to obtain post arrest bail from the trial Court, the applicant/accused has preferred instant bail application.

2. To be very precise, the facts of the prosecution case as disclosed in the FIR are that complainant ASI Mohammad Hanif on 10.12.2018 during patrolling on spy information apprehended three accused and recovered charas and cash from their possession. On enquiry they disclosed their names to be Tayyab (present applicant), Thair and Noor Islam. The police recovered charas weighing 1180 grams from the possession of present applicant/accused, 1085 grams from the possession of accused Tahir and 280 grams from the possession of accused Noor Islam. After observing required formalities on the spot the accused alongwith recovered charas were brought at PS where FIR was lodged.

3. The accused were arrested under one FIR and there was only one mashirnama of arrest, however, recovery of charas shown from accused Noor Islam was only 280 grams and his case was registered

under Section 6/9-B and recovery of charas from the present accused was 1180 grams. The trial Court has refused bail of present applicant and granted bail to the other accused who was also arrested on the same spot under the same FIR.

4. Learned DPG informed the Court that the accused is also involved in an identical case, however, under Section 6/9-B of the same police station and he is on bail in the said case which was registered in July, 2018 and the present case has been registered in December, 2018.

5. Learned counsel for the applicant has relied on the case reported as Muhammad Akram vs. The State (**2016 P. Cr.L.J 1075**) in which 1500 grams charas was involved and the same was declared borderline case. Even otherwise, conduct of the police that after six months they arrested the same man and recovered different quantity of charas creates doubt in the prosecution story, therefore, the applicant/accused Tayyab son of Jalil Ahmed is admitted to bail subject to furnishing solvent surety in the sum of **Rs.50,000/-** and P.R bond in the like amount to the satisfaction of the trial Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Ayaz Gul