

5. Heard and perused the record.

6. With regard to merits of the case, admittedly the applicant was caught red handed with a huge amount of charas; that such a large quantity of charas was unlikely to have been foisted on him especially when no evidence of enmity in terms of malafide or ulterior motive is available on record, which might have actuated the complainant/police to falsely implicate him in the instant crime; that representative samples were taken out from the alleged recovered charas and the same were sent to the chemical examiner; positive report was received and it is not disputed by the counsel for the applicant that the representative samples sent to the chemical examiner were not found sealed, hence, not dispatching 66 K.Gs of charas to the chemical examiner for its chemical examination is not a ground to release the applicant on bail. In any event, such like cases are heinous in nature and are offences against society. Reliance is placed upon the case reported as **Socha Gul v. The State (SCMR 2015 1077)**, wherein the Apex Court has held that *"It is pertinent to mention here that offences punishable under C.N.S Act of 1997 are by its nature heinous and considered to be the offences against the society at large and it is for this reason that the statute itself has provided a note of caution under section 51 of C.N.S Act of 1997 before enlarging an accused on bail in the ordinary course."*

7. With regard to the non-association of private persons, Section 25 of the CNS Act exempted their presence in narcotics cases even otherwise the evidence of ANF officials is also as good as any other citizen. So far as claim of false implication, this issue cannot be attended without going beyond the barriers of tentative assessment, an exercise prohibited by law.

8. With regard to the plea of statutory ground, the object and purpose of *statutory* ground was never meant to delay the *trial* but it was a caution whereby the prosecution was hammered that in case trial is delayed because of *prosecution* then such failure will result in earning a right to insist bail because the law always requires maintaining a balance. However, if the accused or one, representing or acting on his behalf, from his own conduct and attitude causes the delay then such *benefit* would not be available for him because none *legally* can gain a benefit of his own wrongs. In the present case, progress report was called from the trial Court wherein it is mentioned that counsel for the applicant was also remained absent on so many dates of hearings, hence the prosecution

cannot be blamed alone for delay in conclusion of the trial delay. Accordingly, I do not find the applicant to be entitled for grant of bail. Hence, the bail plea is hereby dismissed directing the trial court to conclude the trial expeditiously.

9. The observations made hereinabove are tentative in nature and the trial court shall not be influenced with the same while deciding the case on merits.

JUDGE

Sajid