ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

CR. BAIL APPLICATION NO.1955/2017

Date Order with signature of Judge

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For hearing of bail application.

13.03.2018

Mr. Kausar Ali Shah, advocate for applicant.

Mr. Sagheer Ahmed, APG.

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Through instant bail application, applicant Mst. Shabana seeks post arrest bail in Crime No.72/2017, u/s 6/9 of the C.N.S. Act, 1997, Police Station SIU/CIA.

2. Precisely, relevant facts of the case are that FIR was lodged by complainant SIP Muhammad Moosa that while he was busy in patrolling in official vehicle alongwith lady searcher Shazia Kosar and other officials for arresting absconders and extortionists, he received spy information that a person and a lady were going towards New Karachi on a motorcycle therefore he reached at bus stop 60, Bashir Chowk, New Karachi and started secret surveillance. At about 0030 hours said motorcycle ridden by a person accompanied by a lady was stopped, they disclosed their names as Abdul Haq and Shabana, due to non-availability of private witnesses, police official were made arrest witness; during search a plastic bag was found hanged with motorcycle handle having two packets like chars measured and found each packet of 1 kg and total 2 kg; while lady searcher n conducted search of Mst. Shabana from whose ladies bag two packets of chars in yellow colour plastic weighting 1 kg packet each totaling 2 kg and cash amount of Rupees 300 were recovered, hence FIR was registered.

- 3. Learned counsel for the applicant *inter alia* contends that recovery effected from the applicant is 2 kilograms of charas; final chemical examination report even does not suggest that samples were separately seized from each packet; that applicant has been booked in this crime by police with malafides as ex-husband of applicant was a policeman; applicant is not previously involved in same nature of the cases; investigation is completed; no independent person has been cited as witness and all the prosecution witnesses are police officials hence there is no question of tampering with the prosecution evidence. He lastly contended that applicant is mother of five children including two minor kids and is behind the bar for more than seven months.
- 4. Learned A.P.G. while opposing this application, has contended that offence committed is a crime against society hence applicant 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 2 kilograms of chars. 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 at the spot; which makes a room for further probe. Besides, applicant has been in continuous custody for more than seven months and is no more required for the 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 in view *peculiar* facts of instant case; continuous detention of applicant for more than seven 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 her guilt.

6. Keeping in view the above given circumstances, *prima* facie, applicant has succeeded to bring her case within the purview of subsection 2 of section 497 Cr.P.C, for this reason, she is admitted to post arrest bail subject to her furnishing solvent surety in the sum of Rs.50,000/- and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE