

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr.Bail.Appl.No.S- 415 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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09.06.2017.

Mr. Faisal Ali Raza Bhatti, Advocate for applicant.
Mr. Shahid Ahmed Shaikh, A.P.G. for the State.

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Through instant bail application, applicant Naseem Pathan seeks post arrest bail in Crime No.02/2017 registered at Police Station Excise and Narcotics Hyderabad, u/s 9 (b), of C.N.S. Act, 1997.

2. Precisely relevant facts are that on 28.02.2017, complainant alongwith his subordinate staff on spy information left the Police Station and arrived at the pointed place and saw the present applicant, who on seeing the police party tried to slip away but he was apprehended by the police and from the possession of present applicant 500 grams of charas was recovered. Property and accused were brought at Police Station. FIR was registered against the applicant. 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 500 grams of charas; chemical report is delayed; no independent person has been cited as witness; applicant has no previous criminal record; 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 about 04 months.

4. Learned A.P.G. opposed this application on the ground that this is a crime against society, however he concedes that there is no criminal history of applicant.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 500 grams of charas. No private witnesses have been associated in spite of prior

spy information received at the police station hence the complainant party *least* could have made an attempt to associate *private* mashirs from way or pointed place; there is a delay in sending the representative part for chemical examination which (*delay*) would also be required an explanation by prosecution hence making a room for further probe. Applicant has been in continuous custody since last about 04 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. Besides, offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

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 furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE

Tufail