

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

Cr.Bail.Appl.No.S- 106 of 2016

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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07.06.2017.

Mr. Meer Ahmed Mangrio, Advocate for applicants.  
Mr. Amjad Ali Sahito, Special Prosecutor ANF.

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Through instant bail application, applicants Abdul Ghani and Qurban Ali seek post arrest bail in Crime No.D0404031/2015 registered at Police Station ANF Hyderabad, u/s 9 (c) of C.N.S. Act, 1997.

2. Precisely relevant facts are that on 31.10.2015, complainant alongwith his subordinate staff was present at PS where they received spy information that present applicants, who are brothers, are bringing the huge quantity of narcotics from their area Kotri for selling purpose. On such information, complainant alongwith his subordinate staff reached at the pointed place and saw the present applicants coming on a motorcycle having black shoppers in their hands, who on seeing the police party tried to slip away. However, the present applicants were apprehended and during search recovery of 20 grams heroin and 2 K.G. charas was affected from accused Abdul Ghani and 1100 grams charas was recovered from accused Qurban. Property and accused were brought at Police Station. FIR was registered against the applicants. After usual investigation they were sent up for trial.

3. Learned counsel for the applicants *inter alia* contends that recovery affected from the applicant Abdul Ghani is 20 grams heroin and 2 K.G. charas and from accused Qurban Ali 1100 grams charas was recovered; chemical report is delayed; no independent person has been cited as witness; applicants have 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 applicants are behind the bar since last about 20 months.

4. Learned Special Prosecutor ANF opposed this application on the ground that this is a crime against society, however he concedes that there is no criminal history of applicants.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 20 grams heroin and 3100 grams 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. The applicants are *both* brothers and were allegedly riding on a *single* motorcycle hence independent alleged recoveries from both is also an *infirmity*. Both the applicants have been in continuous custody since last about 20 months and are no more required for any purpose of investigation nor the prosecution has claimed any exceptional circumstances which could justify keeping the applicants behind the bars for an indefinite period. Moreover, prosecution has not claimed that the applicants are 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 *peculiar* facts of instant case; continuous detention of more than 20 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 applicants for grant of bail as no *useful* purpose is likely to be served with further detention of applicants pending determination of their guilt.

06. Keeping in view the above given circumstances, *prima facie*, applicants have succeeded to bring his case within the purview of subsection 2 of section 497 Cr.P.C, for this reason, they are admitted to post arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) each and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE

Tufail

