

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

Cr.Bail.Appl.No.S- 727 of 2016

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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09.06.2017.

Mr. Zeeshan Ali Burdi, Advocate for applicant.  
Mr. Amjad Ali Sahito, Special Prosecutor ANF.

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Through instant bail application, applicant Khamisl seeks post arrest bail in Crime No.54/2016 registered at Police Station ANF Hyderabad, u/s 9 (c), 14 and 15 of C.N.S. Act, 1997.

2. Precisely relevant facts are that on 19.04.2016, complainant ASI Salman of PS ANF alongwith his subordinate staff on spy information arrested the present accused from Fateh Chowk, Tando Muhammad Khan road at 1700 hours alongwith co-accused Soomar and from the possession of present accused two kilograms 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 two kilograms 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 14 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 applicant.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is

two kilograms 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 14 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. 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 *peculiar* facts of instant case; continuous detention of more than 14 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 his guilt.

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