

Order sheet
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 1096 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
--------------	--------------------------------------

1.2.2018

For hearing

Mr. Peeral Majeedano, advocate for applicant

Mr. Shahid Ahmed Shaikh, DPG

OMAR SIAL, J.- Applicant Mumtaz Ali has sought post-arrest bail in Crime No. DO-40401717 48 of 2017 registered under Section 6 and 9(c) of the Control of Narcotic Substances Act, 1997, ANF Hyderabad. Earlier, his post-arrest bail application was turned down by the learned Special Judge under Control of Narcotic Substances Act, Hyderabad on 29.11.2017.

2. Brief facts of the prosecution case as stated by the complainant SI Syed Salman in aforementioned FIR are that on spy information he along with his subordinate staff on 12-11-2017 proceeded towards the identified place. There they saw the person identified by the spy informer who was carrying a black plastic bag in his hand. The suspect (who was the Applicant) was apprehended and searched and upon his search 2.200 kilograms of charas was recovered from the black plastic bag. The entire property was sealed and sent for chemical analysis.

3. I have heard learned counsel for the Applicant as well as the learned Special Prosecutor, ANF and have examined the available record with their able assistance. My observations are as follows:

- i. The learned counsel for the Applicant has argued that the charas allegedly recovered from the Applicant has actually been foisted upon him by ANF at the behest of one Abdul Hakeem Halepoto, who is an enemy of the Applicant. With much respect to the learned counsel, while the Applicant may or may not have an enmity with Abdul Hakeem Halepoto, it does not necessarily mean that the case has been registered at Halepoto's request. No enmity is claimed with ANF and no nexus has been shown between ANF and Halepoto.
- ii. The learned counsel has next argued that the area from where the Applicant was arrested is thickly populated but no private person was cited as witness. In this regard, my attention is drawn towards

section 25 of the CNS Act 1997 which excludes the applicability of section 103 Cr.P.C. in narcotic cases.

- iii. The learned counsel has next argued that the Applicant was actually arrested by the Excise police and not the ANF and has further put on the record a news clipping from the 14-11-2017 edition of Daily Kawish which refers to a statement of the Applicant's brother that the Applicant was arrested illegally by the ANF. The stance taken by the learned counsel, apart from being contradictory, remains unsubstantiated at the moment.
- iv. Lastly, the learned counsel has argued that the Applicant does not have a criminal record and thus he could not have carried the narcotics. This ground of the learned counsel, with much respect to him, has absolutely no force.
- v. Prima facie it appears that the Applicant was apprehended red handed in possession of 2.2 kilograms of narcotics. The entire property was sent for chemical analysis. The analysis report is positive.

4. For the above reasons, the post-arrest bail application of applicant Mumtaz Ali is dismissed.

JUDGE