

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI,
Cr.Bail.Appl.No.450 of 2018.

DATE ORDER WITH SIGNATURE OF JUDGE

For hearing of bail application.

11.04.2018.

Mr. Muhammad Hanif, Advocate for Applicant.

Mr. Abrar Ali Khichi, Deputy P.G. Sindh.

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Through instant bail application, applicant Kamran @ Kami S/o.Abdul Rehman seeks post arrest bail in Crime No.08 of 2018 registered at Police Station Sharafi Goth, Karachi for offence u/s 6/9 (B), of C.N.S. Act, 1997.

2. Precisely, relevant facts of the case are that on 06.01.2018 police party of P.S. Sharafi Goth, headed by SIP Moharram Ali, was busy in patrolling of the area. During patrolling when the police party reached near Taj Ground, Hashim Goth, Landhi Karachi, they saw a person standing in suspicious condition, the police party encircled the said person and succeeded in causing his arrest, who on inquiry disclosed his name as Kamran @ Kami son of Abdul Rehman. During his search police recovered one plastic shopper from the right side pocket of his wearing shirt containing 28 pieces of charas, different in sizes, weighing 107 grams. He arrested the accused and sealed the recovered property on the spot in presence of mashirs and then brought him and the recovered property at police station where FIR was lodged on behalf of State. 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 107 grams charas; chemical report is delayed; no independent person has been cited as witness; 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 more than three months.

4. Learned D.P.G. extends his no objection on the ground that recovery is only 107 grams charas.

5. After careful consideration of contentions of learned counsel for the parties and meticulous examination of available record, alleged contraband narcotics is 107 grams charas. No private witness has been associated despite the place of incident was a busy place, hence the complainant party *least* could have made an attempt to associate *private* mashirs from the place of incident; which makes a room for further probe. Besides, applicant has been in continuous custody since last more than three 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. 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 three 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 his furnishing solvent surety in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE