

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

Cr.Bail.Appl.No.S- 532 of 2020

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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15.10.2020.

Mr. Bhagwandas Bheel, Advocate for applicant.

Ms. Safa Hisbani, A.P.G. for the State alongwith complainant SIP Sain Bux and I.O/SIP Paharuddin P.S Hatri.

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ORDER

**ZULFIQAR AHMAD KHAN, J:** Through instant bail application, applicant Naro s/o Dongar Bheel seeks post arrest bail in Crime No.76/2020 registered at Police Station Hatri, Hyderabad for offence u/s 9(C) of CNS Act, 1997.

2. Precisely relevant facts are that on 19.05.2020 at 2200 hours complainant SIP Sain Bux Khaskheli alongwith his subordinate staff left police station for patrolling in the area and during snap checking they arrested the present applicant from new Sabzi Mandi Chowk, Hyderabad and recovered one plastic theli containing charas weighing 1950 grams. The accused and case property 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 applicants *inter alia* contends that recovery affected from the applicant is 1950 grams charas; chemical report is delayed; no independent person has been cited as witness though the place of incident was a thickly populated area; applicant has no previous criminal record; he is the sole bread earner of his family which has been pushed to poverty in the absence of any income generated by the applicant on day to day basis; that 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 without any progress in the trial.

4. Learned A.P.G. opposed this application on the ground that this is a crime against society, however she 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 1950 grams charas. No private witnesses have been associated to witness the recovery proceedings and the complainant party *least* could have made an attempt to associate *private* mashirs from the pointed place; there is a delay of about 03 days in sending the sample for chemical examination which (*delay*) would need to be explained by prosecution hence making a room for further probe. Applicant has been in continuous custody since last about 04 months without any progress in the trial 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, also there is serious danger of his family members pushed into poverty if the applicant is needlessly kept behind the bar since neither any proper Zakat or social security system is guaranteed by the State. Therefore, keeping *peculiar* facts of instant case; continuous detention of more than 04 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 the grant of bail as no *useful* purpose is likely to be served with further detention of applicant pending determination of his guilt which will put entire family to begging.

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) and P.R Bond in the like amount to the satisfaction of trial Court.

JUDGE

