

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 1545 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

17.12.2018

Mr. Muhammad Akbar Awan, Advocate for applicant.
Ms. Seema Zaidi, DPG for the State.

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A.S.I. Syed Abrar Hussain, leading a police party of the Awami Colony police station was on normal patrol when it received spy information that a person was selling charas on a street. The police party reached the identified spot and arrested the applicant Mohammad Mohsin and recovered 1050 grams of charas from his possession. F.I.R No. 417 of 2018 was registered under sections 6 and 9 (c) of the C.N.S .Act, 1997. The applicant applied for bail before the learned Special Court-II (CNS) at Karachi which was pleased to dismiss the bail application on 3-11-2018.

2. I have heard the learned counsel for the applicant as well as the learned D.P.G. and have also examined the record. My observations are as follows.

3. The quantity of the recovered narcotics is a trifle above the threshold of turning possession from an offence punishable under section 9(b) to section 9(c) of the Act. It will be after evidence is led then the learned trial court will be in a position to determine the actual quantity of the seized narcotic. At this preliminary stage, I am inclined to give the applicant benefit of this uncertainty.

4. It appears that the fact that the applicant is a previous convict, (being previously held guilty, for an offence punishable under section 9(a) of the C.N.S. Act, 1997) has been the primary factor to reject the bail of the applicant. The record shows that the applicant was convicted on a plea of guilt for possessing 50 grams of charas. The applicant appears to be a user of charas rather than a dealer or a seller for commercial purposes. Very little or no benefit will arise as a consequence of confining him to jail. If at all, rehabilitation is what is required and the applicant entered into a rehabilitation centre for ridding him of his addiction. Investigation agencies should use their efforts to arrest the source of the supply of drugs so that the menace may be mitigated. Inevitably in cases such as these, the user is arrested and the police makes no effort to trace the source of supply. As regards the previous conviction it is also yet to be seen if the

prosecution intends to rely on it for a harsher sentence and the same included in the charge against the applicant.

5. Above are the reasons for the short order dated 10-12-2018 in terms of which the applicant was admitted to bail subject to his furnishing a solvent surety in the amount of Rs. 30,000 and a P.R. bond in the like amount to the satisfaction of the learned trial court.

JUDGE