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ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, LARKANA

Cr. Bail Appln:No.S-221 of 2014.

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**DATE            ORDER WITH SIGNATURE OF JUDGE**

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30.05.2014.

Mr. Safdar Ali G. Bhutto, advocate for the applicant.  
Mrs. Seema Imtiaz, A.P.G.

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**SALAHUDDIN PANHWAR, J-** Through instant application, applicant Raja Khan seeks post arrest bail in crime No.16 of 2014, under section 9(c) of CNS Act, 1997, P.S Kakar, District Dadu.

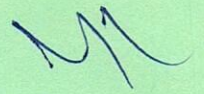
02.            Precisely, the relevant facts are that complainant alongwith subordinate staff was on patrolling,; during that, being suspected they apprehended applicant, having black colour shopper, containing 1500 gm Charas; consequently, after completing codal formalities complainant registered instant case. After usual investigation, accused was sent-up for trial.

03.            Learned counsel for the applicant, *inter-alia*, contends that the applicant has been booked falsely by the police in the instant false case; alleged recovery is 1500 grams<sup>Charas</sup>, and according to the case of GHULAM MURTAZA v. STATE (PLD 2009 Lahore-362), this case does not fall within prohibitory clause of section 497 Cr.P.C; though the place, from where alleged arrest and recovery was effected, was thickly populated area, but patently no efforts were made to join the independent witnesses as mashirs, accordingly it requires further probe.

04.            Learned A.P.G. while refuting the claim of the applicant argued that the instant crime is against the society therefore applicant is not entitled for post arrest bail.


05.            Since, the alleged recovery affected from applicant is 1500 grams of contraband narcotics substance which is charas and dictum laid down in the case of GHULAM MURTAZA (supra), provides a policy

J



regarding quantum of sentence, and it varies according to the nature of contraband narcotics substance. Such judgment is endorsed by the honourable apex Court in the case of AMEER ZEB v STATE (PLD 2012 SC 380 and another case of FAREEDULLAH v. STATE (2013 SCMR 302). The case in hand, if considered in view of such framed policy, the maximum punishment in instant case may, at the most, come as 04 years and 06 months. The position, being so, makes it clear that instant case does not fall within the prohibitory clause of sub-section (1) of Section 497, Cr.P.C. Moreover, prosecution has not claimed that the applicant is previously involved in same nature of the cases nor the prosecution claims custody of the applicant/accused for any purpose of investigation, therefore, keeping the applicant / accused behind the bar would not be within line of Criminal Administration of justice.

06. Keeping in view the above given circumstances, applicant is entitled for post arrest bail, for this reason, by short order dated 30.05.2014 he was admitted to post arrest bail..

  
JUDGE 31/5/2014