

ORDER SHEET

LAHORE HIGH COURT, MULTAN BENCH, MULTAN
JUDICIAL DEPARTMENT

Crl. Misc. No.2159/B/2023

Arshad Ali Vs The State etc.

S.No. of Order/ Proceeding	Date of order/ proceeding	Order with the signature of the Judge and that of parties or counsel where necessary
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15.06.2023 Rana Muhammad Luqman Khan, Advocate, for the Petitioner.
 Mr Khalid Ibn-e-Aziz, Special Prosecutor for ANF.

Tariq Saleem Sheikh, J. – Through this application, the Petitioner seeks post-arrest bail in case FIR No.53/2022 dated 16.12.2022 registered at Police Station ANF Multan, for an offence under sections 9(1)6(c) of Control of Narcotic Substances Act, 1997.

2. Briefly, the prosecution case is that on 16.12.2022 the Petitioner was booked on Gulf Air Flight No.GF-789 for travel from Multan to Muharraq, Bahrain. He arrived at the ANF desk at Multan International Airport at 1350 hours. His luggage was inspected but nothing offensive was found. However, he appeared suspicious to Aftab Chand/SI who removed him from the queue. During the interrogation, he revealed that he had swallowed heroin-packed capsules to smuggle the contraband to Bahrain. Aftab Chand/SI arrested him and dispatched him to the Nishter Hospital where 118 capsules were recovered from him in eight sessions over three days. The total quantity of heroin retrieved from them was 590 grams.

3. Rana Muhammad Luqman, Advocate, contends that the Petitioner was not smuggling anything on Gulf Air Flight No. GF-789. The ANF recovered the alleged heroin from another passenger but released him, making the Petitioner a scapegoat. According to him, a carrier transudes the capsules shortly after he is given a laxative or other suitable medicine. The prosecution's claim that it took three days and eight sessions to recover them from the Petitioner casts doubt on its case and calls for further inquiry to determine his guilt, entitling him to bail.

4. The Special Prosecutor for ANF has controverted the above contentions. He argues that the Petitioner has not brought any material on record which may suggest that the ANF in general, and Aftab Chand/SI in particular, had a cause to implicate him in this case falsely. As regards the counsel's argument regarding the time taken to retrieve the capsules, the Special Prosecutor states that it lacks substance because medical science does not support it.

5. Heard. Record perused.

6. Drug traffickers transport narcotics and contraband psychotropic substances within and beyond borders through various means. These include concealing the goods in a large vehicle, luggage or clothing. Sometimes they attach the contraband to the outside of their bodies with adhesive tape, glue or straps, especially in places such as between the cheeks of the buttocks or between fat rolls. Until the early 1990s, other inconspicuous places, such as the soles of cut-out shoes, inside belts, or the rim of a hat, were frequently employed.

7. Body packing is another common way to traffic illicit drugs with a high street value like heroin. Body packers (referred to as "drug mules") swallow drug packets mostly made with latex sheaths due to their impervious quality. Predominantly, latex material includes the usage of latex gloves fingers, balloons, or multilayered condoms.¹ The body packers take antimotility medicines after swallowing multiple packets to reduce intestinal motility and avoid passing out the drugs before reaching their destination. When they get there, they use laxatives, cathartics, or enemas to retrieve the contraband. The total amount of drug involved represents a supra-lethal dose. The rupture of one or more packets is a risk, resulting in sudden toxicity and overdose. Even if the packets do not burst, osmotic seepage across the latex wrapping may allow small amounts of drug to enter the bloodstream.² The risk of poisoning depends on the quality of the wrapping and the

¹ Abedzadeh, A. A., Iqbal, S. S., Al Bastaki, U., & Pierre-Jerome, C. (2019). *New packaging methods of body packers: Role of advanced imaging in their detection. A case study.* Radiology Case Reports, 14(5), 627-633. <https://doi.org/10.1016/j.radcr.2019.03.002>

² Gerald F. O'Malley et.al. *Body Packing and Body Stuffing* (December 2022). <https://www.msdmanuals.com/professional/special-subjects/illicit-drugs-and-intoxicants/body-packing-and-body-stuffing>

type of drug ingested. Cocaine, for example, presents a much higher risk than heroin because of its high toxicity and lack of a specific antidote.³

8. Body stuffing is similar to body packing. It happens when people about to be apprehended by law enforcement swallow narcotic packets to avoid detection. Sometimes they insert them into the rectum or vagina. Body stuffing usually involves much smaller amounts of drugs than body packing, but overdose is still a hazard because the drugs are typically less securely packaged.⁴

9. Plain abdominal radiographs can detect ingested packets but may miss them if the radio density is very close to that of stool, as with heroin and cocaine.⁵ A contrast CT scan or an MRI can reveal more packets.⁶

10. Albeit laxatives help retrieve swallowed drugs, as adumbrated, law enforcement agencies should avoid administering them because, apart from raising legal and ethical issues, they may imperil the accused's life by doing so. They should promptly refer the accused to the hospital.

11. Doctors follow the conservative approach as much as possible in managing body packers and stuffers in hospitals, resorting to surgery only when obstructive features develop or intra-abdominal packets rupture and cause systemic toxicity. They can clear packets from the vagina relatively easily and safely, but attempts to evacuate the rectum manually may rupture them, producing systemic toxicity through rectal absorption. Packets in the stomach can be retrieved by inducing emesis, giving laxatives, or taking other measures to expedite passage through the gut.⁷

12. Offenders with normal vital signs and normothermia may be discharged home after observation up to six hours. However, symptoms suggestive of drug intoxication may necessitate hospitalization for additional monitoring and decontamination. Body

³ Davidson's Principles and Practices of Medicine, 24th Edn., p.231

⁴ See Note 2.

⁵ Krishan Vij, *Textbook of Forensic Medicine & Toxicology*, Principles & Practice. 6th Edn., p.472.

⁶ Roppolo et.al. *Emergency Medicine Handbook: Critical concepts for Clinical Practice* (2007) p.984

⁷ Weatherall, D.J., et.al. Oxford Textbook of Medicine, 3rd Edn., Vol.1, p.1075

packers may need to be hospitalized for several hours or days until all the packets are passed. Individuals who come with serious symptoms or intestinal obstruction require surgical intervention.⁸ Some authors consider five days as sufficient time for passage of the drug packets, while others say that the time varies from 27 hours and seven days.⁹ Wong *et.al.* write that body packers who are managed conservatively should be observed in a hospital setting until all packets are evacuated. Packet count can be used to indicate a successful procedure. However, this method may not be reliable for the offenders who are uncooperative and refuse to disclose the exact number of packets in their bodies. Alternatively, passing two or three packet-free stools after continuous bowel irrigation for 12 hours plus negative abdominal radiology may be used as a guide to suggest complete clearance.¹⁰

13. The medical literature cited above negatives Mr Khan's contention that the retrieval process should not take more than a day.

14. In the present case, as per record, the Petitioner told Aftab Chand/SI that he had swallowed 128 capsules. Consequent thereupon, he took him to the Emergency Ward of Nishter Hospital Multan on 16.12.2022 at 07:10 p.m. Subsequently, he was admitted to Medical (General) Ward No.12. He passed 118 capsules over the next three days, as detailed below:

Sr.No.	Date	Time	No. of packed capsules passed	Total recovery
1	17.12.2022	04:30 a.m.	39	
2	17.12.2022	12:30 p.m. (Midday)	56	95
3	17.12.2022	01:30 p.m.	06	101
4	17.12.2022	03:15 p.m.	01	102
5	17.12.2022	06:53 p.m.	05	107
6	19.12.2022	06:45 a.m.	04	111
7	19.12.2022	01:52 p.m.	05	116
8	19.12.2022	08:00 p.m.	02	118

⁸ See Note 6

⁹ de Bakker JK, Nanayakkara PW, Geeraedts LM Jr, de Lange ES, Mackintosh MO, Bonjer HJ. Body packers: a plea for conservative treatment. Langenbecks Arch Surg. 2012 Jan;397(1):125-30. doi: 10.1007/s00423-011-0846-z. Epub 2011 Oct 8. PMID: 21984212; PMCID: PMC3224221.

¹⁰ Wong, G., Lai, K., & Chung, C. (2005). Management of Body Packers in the Emergency Department. *Hong Kong Journal of Emergency Medicine*. <https://doi.org/10.1177/102490790501200203>.

15. The Petitioner was hospitalized until 26.12.2022 because he claimed to have ingested 128 capsules, although only 118 were recovered. The Investigating Officer secured them through the following Recovery Memos:

Sr.No.	Date	No. of packed capsules taken into possession by Investigating Officer
1.	17.12.2022	40
2.	18.12.2022	30
3.	19.12.2022	25
4.	20.12.2022	23
	Total	118

16. The Petitioner was arrested from Multan International Airport when he reported for Flight No.GF-789. His airline ticket and travel documents are in the police file. The prosecution case is supported by the statements of witnesses recorded under section 161 Cr.P.C. and corroborated by the Discharge Slip issued by Nishter Hospital and the Chemical Analyst's report. The Petitioner has not presented any evidence that the ANF had any motive to implicate him falsely.

17. The heroin allegedly recovered from the Petitioner weighed 590 grams. The offence is punishable by imprisonment for a term which may extend to fourteen years but shall not be less than ten years, along with a fine up to five hundred thousand rupees but not less than one hundred and twenty-five thousand rupees. No case for bail is made out. Hence, I have dismissed this application with a short order of even date.

(Tariq Saleem Sheikh)
Judge

Naeem

Approved for reporting

Judge