

Form No. HCJD/C-121
ORDER SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Case No. Crl. Misc. No.60701-B of 2024

Habib-ur-Rehman **versus** The State and another

Sr. No.	Date of order	Order with signature of Judge, and that of parties or counsel, where necessary.
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01.11.2024 Mr. Muzammal Shahzad Sial, Advocate for the petitioner.
Mr. Hammad Akbar Wallana, Special Prosecutor for the ANF and Sumaira Yaseen Inspector/ANF with police record.
Mr. Sabir Saqlain, Legal Advisor PFSA, Khalida Sattar, Law Officer, PFSA, Muhammad Mubashar and Umar Sharif Ali Forensic Scientists.

Through this petition filed under Section 497 Cr.P.C., the petitioner seeks his post-arrest bail in case FIR No.52/2024, dated 13.06.2024, offence under Section 9(2)-9 of the Control of Narcotic Substances Act, 1997 (hereinafter '*the CNSA*') registered with Police Station A.N.F. Lahore.

2. According to the crime report, upon receiving information from the Branch Manager of DHL Worldwide Express, an A.N.F. raiding team visited the office, where the Manager handed over a parcel to the complainant. This parcel had been booked by the petitioner for delivery to New Zealand. Upon inspection of the parcel, a quilt cover, bed sheet, cushion covers, oblong cushion covers, pillow covers, fabric, and cotton were found, all of which were allegedly soaked with methamphetamine (herein after "Ice"). The combined weight of these items was 12 kilograms.

3. Arguments heard and the record perused.

4. The recovered clothing items were sent to the Punjab Forensic Science Agency (PFSA) for analysis to detect the presence of the alleged psychotropic substance. The PFSA

report reveals that, out of the twelve clothing items, only four contain Ice. Although the forensic report confirms that the four clothing items were saturated with the psychotropic substance known as Ice, it does not include a quantitative analysis to determine the exact amount of Ice present. This omission leaves the precise quantity of the psychotropic substance undetermined. Today, the Forensic Scientist from the Narcotics Department of the Punjab Forensic Science Agency appeared before the Court and submitted his report, which states as follows:

“The quantity of Methamphetamine (Ice) soaked in cloth/cotton could not be determined due to non-availability of separation facilities at PFSA (Narcotics Department). So, we are unable to provide the actual total quantity of Methamphetamine (Ice) in confirmed parcels.”

5. In the context of narcotic substances analysis in Pakistan, particularly under the CNSA, the terms qualitative and quantitative tests refer to two key aspects of forensic testing conducted to determine the nature and quantity of narcotic substances in a sample. These tests are typically carried out by forensic labs and are crucial for evidence in narcotics cases. A qualitative test identifies the specific type of narcotic in a sample, confirming whether it is a narcotic drug or psychotropic substance under CNSA. Using advanced techniques such as chromatography, mass spectrometry, and infrared spectroscopy, the test reveals the substance's unique chemical profile, verifying its nature and legality. On the other hand, a quantitative test determines the precise concentration of a narcotic in a sample, shaping the severity of penalties under the CNSA, where higher quantities lead to stringent sentencing. Without a forensic report confirming the exact quantity, the prosecution may struggle to meet the evidentiary standards required for conviction and sentence.

6. In the given circumstances, when the report from the Punjab Forensic Science Agency (PFSA) fails to provide a conclusive determination regarding the actual quantity of psychotropic substance purportedly absorbed within the clothing articles, the case against the petitioner enters the realm of further inquiry as envisaged under Section 497 (2) CR.P.C. The uncertainty in establishing the precise quantity of the alleged recovered psychotropic substance necessitates the recording of additional evidence, as the current record remains inconclusive. Consequently, this ambiguity warrants judicial scrutiny, leaving the matter open to deeper appreciation, an exercise best reserved for thorough deliberation at trial. The petitioner has remained in custody since his arrest, and his presence is no longer required by the investigating agency for further investigation. Thus, detaining him indefinitely would serve no meaningful purpose.

7. For what has been discussed above, the petition in hand is **allowed** and the petitioner is admitted to post-arrest bail subject to his furnishing bail bonds in the sum of **Rs.2,00,000/-** (rupees two lacs only) with one surety in the like amount to the satisfaction of the trial court. However, it is hereby clarified that should the petitioner fail to cooperate with the trial court for an expeditious conclusion of the trial proceedings, such conduct shall be deemed a misuse of the concession of bail. In such an event, the State shall have the right to apply for the cancellation of his post-arrest bail.

(Ali Zia Bajwa)
Judge

Approved for Reporting.

Judge

The order was pronounced and dictated on 01.11.2024 and after completion, it was signed on 04.11.2024.

Haider Shah