

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 859-B of 2020.

Amin Khan.
VERSUS
The State, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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30.07.2020. Mr Muhammad Ilyas Khan, Advocate for the petitioner.
Dr. Waseem Ahmed Qureshi, Special Prosecutor, ANF.
Mr Sheraz, Inspector/I.O. ANF with record.

The petitioner Amin Khan son of Khan Sheern has sought post arrest bail in case, F.I.R. No. 75, dated 10.04.2019, registered under section 9-C, 14 and 15 Control of Narcotics Substance Act, 1997 (hereinafter referred to as the "**Act of 1997**"), at Police Station ANF(RD) North, Rawalpindi.

2. Brief facts, as narrated in the FIR are that pursuant to an information, officials of the Anti-Narcotics Force, intercepted a vehicle/truck, which was being driven by Abdul Wakeel, whereas the present petitioner was sitting on front seat alongwith other accused namely, Manadar Khan. The search of the truck/vehicle led to recovery of 'charas garda' and 'opium' weighing 12000/12000 grams respectively. Hence the instant petition.

3. The learned counsel for the petitioner has contended that; no incriminating material was recovered from the latter; recovery if any is

fake and concocted; there is no evidence against the petitioner; the petitioner has been incarcerated for more than fifteen months; further incarceration of the petitioner will not serve any useful purpose; the petitioner has no criminal record; there is no other case against the petitioner except the present case; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; the petitioner is innocent; the petitioner has not committed any offence; the petitioner has been falsely involved in the instant case; the case against the petitioner is false, frivolous and vexatious; the petitioner has been involved in the instant case with ulterior motives; the petitioner has no concern whatsoever with the alleged offence; story as narrated in the FIR is false and vexatious; the petitioner has maliciously been involved in the instant case; offence does not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; there is no evidence of sale/purchase of contraband substance; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the petitioner is ready to furnish surety to the satisfaction of the Court; the petitioner is not the owner of the vehicle/truck from which the alleged recovery has been affected; there appears no reasonable ground for believing that the petitioner has committed any offence; there are sufficient grounds for further inquiry into the guilt of the petitioner. Hence urges for the grant of post arrest bail.

4. The learned Special Prosecutor, ANF appeared alongwith Sheraz, Inspector. They have opposed the grant of bail. It is contended that; substantial quantity of contraband substance was recovered from

the petitioner and his accomplice; the petitioner is one of the member of gang, which is engaged in sale of the contraband substance; the petitioner was arrested from the crime scene alongwith substantial contraband substance; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; charge has been framed; most of the prosecution witnesses have been recorded and the trial of the case will be concluded shortly; the agency had no previous enmity with the petitioner; report of chemical examiner is positive; the officials are competent witnesses; hence, they have opposed the grant of bail.

5. We have heard the learned counsels for the parties and perused record with their able assistance.

6. Perusal of the record shows that 'charas garda' and 'opium' weighing 12000/12000 grams respectively were recovered from the petitioner. Allegedly, the contraband substance was concealed in secret cavities of the truck/vehicle. The factor of conscious knowledge at this stage obviously cannot be ruled out. Substantial quantity of contraband substance was recovered from the petitioner alongwith his accomplice. Samples of the contraband substance were separated for Chemical Examination and sent for analysis. The report of Chemical Examiner was positive. There is sufficient incriminating material placed on record to decline post arrest bail. Charge has been framed and the trial of the case is expected to be concluded shortly. We have been informed that there are six witnesses who are to be examined in this case. We are, therefore, not inclined to extend the concession of bail. However, we expect that the learned trial Court will endeavour to conclude the trial expeditiously. We

also expect that the prosecution as well as the petitioner will ensure that trial is not delayed.

7. For the above reasons, bail is ***refused*** and the instant petition is accordingly ***dismissed***.

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

(LUBNA SALEEM PERVEZ)
JUDGE

(CHIEF JUSTICE)

*Asad K/**