

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Criminal Misc. No.1003-B/2020**

**Amir Khan**

**Versus**

**The State**

<b>S. No. of order proceedings</b>	<b>Date of order Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
--	--	--

01.10.2020	Mr. Rizwan Ali Baloch, Advocate for petitioner. Dr.Waseem Ahmad Qureshi, Special Prosecutor, ANF, Mr. Kamran, SI, ANF.
------------	---

**FIAZ AHMAD ANJUM JANDRAN, J.** Through this Crl. Misc. petition, petitioner (Amir Khan) seeks bail after arrest in FIR No. 18, dated 28.06.2020, registered under Section 9-C of Control of Narcotics Substances Act, 1997, at Police Station ANF, Islamabad.

2. Briefly, the allegations set forth in the FIR are that on 28.06.2020 at about 02:00 pm, within the area of M-1 Exit Islamabad police intercepted vehicle bearing No.P/3096, being driven by petitioner. On its search, two packets of charas weighing 2kg were recovered from beneath the driving seat of said vehicle.

3. Learned counsel for the petitioner contends that the petitioner is a mechanic by profession, has no nexus with the vehicle or the contraband recovered; that no witness from the public was associated with the recovery proceedings which is violation of Section 103 Cr.P.C; that petitioner retains no criminal record; that investigation is completed and petitioner is no more required for further investigation, therefore, entitle to the concession of bail. Learned counsel fortified his submissions by placing reliance upon case laws

reported in 2012 SCMR 573, PLJ CRC Peshawar 216 and 2013 YLR 2284.

4. Conversely, learned Special Prosecutor ANF contends that the petitioner is nominated in the FIR and was arrested at the spot with huge quantity of narcotics substance, therefore, not entitled to the concession of bail.

5. Arguments heard, record perused.

6. Perusal of record reveals that 2000- grams of charas was recovered from the possession of the petitioner. The quantity of narcotics substance recovered entails death punishment, life imprisonment or imprisonment up to 14 years and falls within the ambit of prohibitory clause of Section 497 Cr.P.C, therefore, in such type of cases, no benefit could be extended to the petitioner/accused.

7. Record further reveals that the role of the present petitioner is that of a driver of the vehicle, wherefrom narcotic was recovered. It is now well settled that in case where contraband is transported in a vehicle, the main role lies on the person who is driving the vehicle. The Hon'ble Apex Court in case reported as Nadir Khan and another Vs. The State (1988 SCMR 1889) held that "a driver of a vehicle is to be saddled with the responsibility of conscious possession of narcotic substance found in the vehicle being driven by him". Relying upon the said judgment of the Hon'ble Apex Court, the Hon'ble Lahore High Court also refused bail to an accused having identical role in case reported as (Mohammad Faisal Vs. The State 2006 YLR 3039). Moreover, the sample sent to the office of Chemical Examiner on the very next day of the recovery and the report

of Chemical Examiner confirms that the substance recovered was charas which can be used to cause intoxication.

8. In view of above, the petitioner is not entitled to the concession of post arrest bail. Therefore, instant post arrest bail petition is **dismissed**. However, the petitioner has a legitimate right that his case is to be decided as early as possible, therefore, while relying upon case law reported as **"2011 SCMR 1332 (Rehmatullah and another Vs. the State)"**, the learned Trial Court is directed to conclude the trial within a period of two months after the receipt of this order under intimation to this Court by proceedings with the case on day-to-day basis.

(MOHSIN AKHTAR KAYANI)  
JUDGE

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE

"M.A.Raza"