

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

Criminal Misc. No. 1331-B of 2022

Muhammad Rizwan

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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07.11.2022. Mr. Imran Ali, Advocate for the petitioner.
Makhdoom Syed Fakhar Imam Ali, State Counsel.
Mr. Shahid Asghar, S.I, P.S Tarnol, Islamabad.

BABAR SATTAR, J.- The petitioner is seeking bail after arrest in relation to charges brought pursuant to FIR No. 1041 dated 18.09.2022 under section 9(c) of the Control of Narcotic Substances Act, 1997 ("**CNSA**") registered at Police Station Tarnol, Islamabad allegedly having in possession 1250 grams of heroin and 102 grams of methamphetamine (Ice).

2. Learned counsel for the petitioner submitted that there was a two hours delay in registration of the FIR even though the petitioner was arrested from very close to the police station. He submitted that it was a borderline case and the petitioner had no previous conviction.

3. The learned State Counsel contended that there was no infirmity in the manner in

which the petitioner was arrested red-handed while in possession 1250 grams of heroin and 102 grams of Ice. That samples of contraband were sent for chemical examination and the National Forensic Science Agency's report dated 10.10.2022 was positive.

4. In view of Section 9(c) of CNSA as amended pursuant to Control of Narcotic Substances (Amendment) Act, 2022, possession of heroin in the quantity ranging from 500 to 1999 grams of heroin attracts a punishment of 14-years which falls within the prohibitory clause of section 497(1) of Cr.P.C. And possession of psychotropic substance in the quantity over 100 grams and up to 500 grams attracts the sentence of five years. No infirmity has been pointed out by the learned counsel for the petitioner with regard to the manner in which the recovery was affected. No aspersion has been cast with regard to the chain of custody of the parcels to the National Forensic Science Agency (NFSA), which by report dated 10.10.2022 stated that samples have been testified positive. There is sufficient material available on record which connects the petitioner with the offence that he has been charged with.

5. The contention of the learned counsel for petitioner that the petitioner is entitled to bail on ground of it being borderline case is misconceived in view of amendment in section 9(c) of CNSA pursuant to Control of Narcotic Substances (Amendment) Act, 2022. The quantity ranges from 500 to 1999 grams of heroin attracts a punishment of 14 years. The quantity ranges from 500 to 1999 grams of heroin attracts a punishment of 14 years. The quantity of heroin recovered and attributed to the petitioner is more than twice the amount that attracts the punishment that falls within the prohibitory clause.

6. No constitutional or statutory ground for bail as detailed by this Court in its judgment dated 24-10-2022 passed in Criminal Misc. No. 988-B/2022 titled **Waqar Khan Vs. The State** has been made out, the petition is therefore **dismissed**.

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

(AAMER FAROOQ)
JUDGE

(BABAR SATTAR)
JUDGE