

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Criminal Misc. No.46-B/2020

Muhammad Fahad Malik
Vs.
The State and another

S.No. of order/ proceeding	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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11.02.2020	Mr. Muhammad Waqas Malik, Advocate for the petitioner. Dr. Waseem Ahmed Qureshi, Special Proscutor, A.N.F.
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GHULAM AZAM QAMBRANI, J.:- The petitioner namely Muhammad Farhad Malik seeks post arrest bail in case F.I.R No.53/2019 dated 15.03.2019 under Section 9-C of the Control of Narcotic Substances Act, 1997, Police Station A.N.F/Rd (North) Rawalpindi.

2. Briefly stated facts of the prosecution's case are that on the complaint of Raja Shoaib Ahmed, Inspector, Police Station A.N.F Rd (North) Rawalpindi F.I.R No.53/2019 was registered on 15.03.2019 wherein, it has been alleged that on the said day, at about 10:00am, he received a spy information; that a narcotic paddler namely Muhammad Fahad Malik having huge quantity of narcotics will come near Khudadad Heights, Margalla Road, E-11, Islamabad, to supply the same to his customer/buyer; upon such information raiding party was constituted consisting of police officials and the informer. They reached at Khudadad Heights, Margalla Road, E-11, Islamabad, on official vehicle at about 11:20 am. It has been alleged that at about 11:30 am, two persons

came over there and on the pointation of informer, the said two persons were arrested; on query, they disclosed their names as Muhammad Fahad Malik and Tayyab Hussain. On personal search of Muhammad Fahad Malik, 1600grams charas was recovered from his possession. Petitioner filed bail application before the learned trial Court which was dismissed on 15.05.2019. A bail petition was also preferred (Criminal Miscellaneous No.321-B/2019) which was also dismissed on 28.05.2019.

3. Learned counsel for the petitioner contends that the petitioner is innocent and has falsely been involved in this case; that this is the second bail application before this Court and the first bail application bearing No.319-B/2019 was dismissed vide 28.05.2019 passed by this Court with the direction to the trial Court for conclusion of the trial within six months; that the petitioner is entitled for the grant of bail on the statutory grounds; that nothing has been recovered from the possession of petitioner and the case of petitioner falls within the ambit of further inquiry on the basis whereof he may be enlarged on bail.

4. On the other and, learned special prosecutor A.N.F vehemently opposed the bail petition and contended that the petitioner was caught red handed, contraband was recovered from his possession; that challan has already been submitted, one of the prosecution witnesses has been recorded. Therefore, the petitioner is not entitled for the grant of bail.

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

6. From the perusal of record, it reveals that the first bail of the petitioner was dismissed by this Court on merits. He has filed this petition on the strength of statutory ground of delay in conclusion of Trial. Perusal of record reveals that 1600 grams charas was allegedly recovered from the possession of petitioner and he was arrested and accordingly sent to judicial lock up on 15-03-2019. He has not crossed the requisite period of detention prescribed in third proviso of Section 497 Cr.P.C. therefore, statutory ground is not applicable to the case of petitioner. No fresh ground has been raised by the petitioner. On the same ground, earlier bail petition was dismissed, therefore, this petition is not maintainable.

7. In view of above reasons, instant bail petition is hereby dismissed. However, while again placing reliance on the judgment of august Supreme Court 2011 SCMR 1332 Rehmat Ullah vs. the State, learned trial Court is directed to conclude the trial within a period of four months from the date of receipt of this order.

(AAMER FAROOQ)
JUDGE

(GHULAM AZAM QAMBRANI)
JUDGE

*Rana M.Ift.**