

JUDGMENT SHEET  
**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**Crl. Misc. No.728-B/2020**

**PARVEEN AKHTAR.**

Versus

**THE STATE AND ANOTHER.**

*Petitioner by:* Mr. Shahid Shabbir, Advocate.

*State by:* Mr. Muhammad Sohail Khurshid, State Counsel.  
Mr. Mumtaz, S.I.

*Date of Hearing:* 20.05.2020.

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**LUBNA SALEEM PERVEZ; J.** Through instant petition, Petitioner namely Parveen Akhtar, seeks post arrest bail under section 497 Cr.P.C, in case FIR No.32/20, dated 20.01.2020, offence under section 9-C CNSA, registered at Police Station, Golra Shareef, Islamabad.

2. The facts, as per FIR are that Petitioner was apprehended on spy information from the area of Muhallah Peeranwala, Golra Sharif, Islamabad, and 1020 grams Heroin, contained in white colored shopping bag, was recovered from her personal search, out of which 5 grams Charas was separated as sample for chemical examination, whereas, the remaining recovered narcotics substance was sealed in separate parcels and handed over to concerned officials.

3. Petitioner before filing of this bail application also applied for post arrest bail before the learned Additional Sessions Judge, West-Islamabad, who vide order dated 07.02.2020 declined the same. Hence, present criminal miscellaneous petition for post arrest bail.

4. Learned counsel for the accused/petitioner contended that the petitioner is innocent who has been falsely implicated in the case, whereas, the criminal case under section 9-C, CNSA, Act, 1997 has been registered against him with malafide intentions. Learned Counsel contended that as per FIR the accused has been arrested with the contraband from the public place but no private witness

has been associated at the time of alleged recovery. Learned Counsel further submitted that the accused is previously non-convict and the recovery is fake and planted. Learned Counsel further argued that investigation has been completed and challan has already been sent to Court while trial is in progress and the Petitioner is in judicial custody since her arrest. Learned Counsel lastly contended that the case of Petitioner is one of further inquiry and she is ready to furnish adequate surety to the satisfaction of the court; therefore, may be released on bail.

5. The State Counsel along with S.I, in attendance, submitted the report and stated that accused has been arrested on 20.01.2020 along with the 1020 grams of heroin out of which 05 grams were separated for chemical analysis which was sent to the lab on 12.12.2019 report of which was received on 14.02.2020, as positive. He submitted that accused was also nominated in several other cases of similar nature registered at P.S Golra Sharif, Islamabad. Learned State Counsel reiterated that there is sufficient material available on record to hold that the accused is involved in the offence and has been arrested red handed with the heroin, therefore, not entitled to concession of bail.

6. We have heard the learned Counsel for the accused / petitioner as well as learned State Counsel and also perused the record with their able assistance.

7. As per FIR, the accused/petitioner has been arrested and recovery of 1020 grams of heroin has been effected which was weighed along with its parcel/polythene bag thus it is a borderline case as if its parcel is separated from the substance/heroin it may reduce in weight and attract the provisions of section 9-B of the CNSA, Act, 1997, therefore, it is a borderline case between clauses 9-B and 9-C of the CNSA, Act, 1997 and it has been consistent view of the superior Courts that in cases where recovery of narcotic substance does not exceed the limit between 900 to 1500 grams, the case being of borderline between clauses (b) and (c) of section 9 of Control of Narcotic Substances Act, 1997, therefore, invariably in all cases applicants have been admitted to bail. In this regard, guidance can be taken from the cases of **Muhammad Afzal Vs. The**

**State (2012 MLD 220), 'Ayaz v. The State' (2011 PCr.LJ 177), 'Mehboob Ali v. The State' (2007 YLR 2968), and 'Taj Ali Khan v. The State' (2004 YLR 439).**

8. Moreover, no private witnesses have been associated and there is no private person who signed the mashirnama of arrest and recovery thus, in view of the above circumstances, it is a case of further inquiry and therefore, in view of the principles settled by Hon'ble Supreme Court of Pakistan in case titled as **Amir Zeb vs. The State" reported as (PLD 2012 SC 380) and Ateeb Ur Rehman Vs. The State reported as (2016 SCMR 1424)**, petitioner, in our view, is entitled for bail after arrest. Moreover, the PWs are police officials, as such, there is no likelihood to tamper with the prosecution case if the Petitioner is released on bail. Since, the challan has already been submitted, therefore, the Petitioner/accused is no more required for further investigation, who is continuously in custody since the date of her arrest and no useful purpose would be served if she is kept behind the bars for an indefinite period.

9. In view of the above, we allow the petition and admit the Petitioner to bail subject to furnishing of surety bonds in the sum of Rs. 1,00,000/- (One Lac) with one surety in the like amount to the satisfaction of learned Trial Court.

10. It is made clear that the observations made hereinabove, being tentative in nature, shall not prejudice the case of either party.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

Adnan/-