

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Miscellaneous No.829-B /2020

Prince Masih

Vs

The State

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

20.07.2020 Ms. Rukhsana Sardar & Ms. Nazia Abbasi,
Advocates for the petitioner.
Mr. Zohaib Hassan Gondal, Standing
Counsel.
Mustafa S.I.

The petitioner (Prince Masih S/o Aslam
Masih) seeks bail after arrest in case F.I.R.
No.457/2019 dated 17.12.2019 under Section 9-C
Control of Narcotic Substances Act, 1997 (CNSA)
registered with Police Station Khana, Islamabad.

2. The case of the prosecution against the
petitioner is that on spy information the police
authorities installed picket at Islamabad
Expressway where at about 03:10 am a Honda
motorcycle which was ridden by a young man, was
stopped. The person identified himself as Prince
Masih. A transparent shopping bag was hanging
with the handle of motorcycle which was
inspected; it transpired that it has narcotic
substance and when weighed was 2200 grams.

Samples were taken and sent to forensic laboratory.

3. The petitioner filed bail after arrest which was dismissed on 23.06.2020 by the Additional Sessions Judge (East), Islamabad. Hence this petition.

4. Learned counsel for the petitioner, *inter alia*, contended that the allegations against the petitioner are false and frivolous; that it does not appeal to a prudent mind that the petitioner would be carrying narcotic substance in broad daylight in open; that there is no previous conviction of the petitioner; that the samples were sent for chemical examination after the prescribed time; that the investigation stands concluded.

5. Learned Standing Counsel, *inter alia*, contended that report under Section 173 Cr.P.C. has been filed; that in the investigation the petitioner has been found guilty; that the samples sent have been analyzed by the forensic laboratory and the substance is *Chars*.

6. Arguments advanced by the learned counsel for the parties have been heard and the documents placed on record as well as the police file perused with their able assistance.

7. The petitioner has been implicated with an offence under Section 9-C CNSA; the sentence prescribed therein attracts prohibitory clause of Section 497 Cr.P.C. The quantity recovered is much beyond the borderline case and the report of the chemical analyst clearly shows that the contraband substance is *Chars*. The fact that the samples were sent with a delay is inconsequential inasmuch as in light of the recent pronouncement of the Hon'ble Supreme Court of Pakistan the provision is directory and not mandatory. Under the facts and circumstances no case of further inquiry is made out. Moreover, report under Section 173 Cr.P.C. has been filed and the trial is about to commence.

8. In view of above, the instant petition is without merit and is accordingly dismissed. However, the learned Trial Court is directed to conclude the trial within a period of five months from the date of receipt of this order.

(MIANGUL HASSAN AURANGZEB)
JUDGE

(AAMER FAROOQ)
JUDGE