

JUDGMENT SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No.666-B/2020

Zareena Bibi
Versus
THE STATE.

Petitioner by: Ms. Nagina Rehman Yousafzai, Advocate.

State by: Dr. Waseem Ahmad Qureshi, Special Prosecutor,
ANF.
Kh. Faizan, S.I.

Date of Hearing: 11.05.2020.

LUBNA SALEEM PERVEZ; J. Through instant petition, Petitioner Zareena Bibi w/o Mir Azam, seeks post arrest bail in case FIR No.42/2019, dated 24.02.2019, for offence under section 9-C & 15 CNSA, 1997, registered at Police Station, ANF/RD North Rawalpindi.

2. The facts involved in the matter are that the police party was on routine patrolling, in search of drug paddlers and while random checking of a van at Chungi Number 26 Bus Stop, G.T. Road, Islamabad, the accused/petitioner Zareena Bibi along with co-accused Samina Bibi and minor girl sitting on the front seat appeared to be suspicious and when searched by the lady constable, eight packets containing 1200/- grams each of charas having total weight of 9,600/- grams was recovered from them (4,800/- grams wrapped from the body of each accused). The recovered narcotic substance was taken into possession and 10 gram sample from each packet of 1200/- grams charas, was separated for chemical examination. Perusal of the record shows that samples were transmitted to the laboratory on 25.02.2019, which concluded to be identified as charas vide report dated 11.03.2019.

3. Learned counsel for the petitioner submitted that the petitioner has been incarcerated since, 24.02.2019 and candidly admitted that this is the 3rd bail application as 1st bail application bearing Criminal Miscellaneous No.250/B/2019, filed before this Court was dismissed, vide judgment dated 02.05.2019, and subsequently 2nd bail application bearing Criminal

Miscellaneous No.815/B/2019, was dismissed, vide judgment dated 01.01.2020. Learned counsel submitted that while dismissing the bail application of the accused, the Hon'ble Court was pleased to direct the trial Court to conclude the trial within a period of six months but the trial is pending till date, therefore, accused/petitioner is entitled to bail on this ground alone.

4. On the other hand, learned Special Prosecutor, ANF, argued that the trial is in progress and out of five prosecution witnesses, three witnesses have concluded their evidence and to the extent of remaining two witnesses only their cross examination is required to be recorded. Learned Special Prosecutor submitted that the next date of hearing is fixed as 14.05.2020, and it is expected that the proceedings will be concluded soon thereafter. Learned Special Prosecutor opposed the grant of bail to the accused at this stage.

5. Arguments heard. Record perused.

6. We have gone through the record produced by the ANF authority and the judgments dated 02.05.2019 and 01.01.2020, passed by this Court, whereby, earlier two bail petitions of the accused/petitioner were declined with the direction to conclude the trial within six months. Perusal of the judgment dated 02.05.2019, reveals that the bail was dismissed on merit and instant petition for post-arrest bail is 3rd petition filed by the petitioner on the ground of delay in trial. Whereas, it is settled in case reported as **2011 SCMR 1332 (Rehmat Ullah Vs. the State and another)** that:-

"The courts should not grant or cancel bail when the trial is in progress and proper course for the courts in such a situation would be to direct the learned trial Court to conclude the trial of the case within a specified period."

7. Instant bail application has been moved with no new ground and as the trial of the accused has commenced and as apprised by the learned Special Prosecutor, ANF, trial is near its completion and case is fixed for 14.05.2020. Thus, at this stage grant of bail to the accused/petitioner would be against the law settled by the apex Court. Guidance in this regard has been sought from the case law reported as **Muhammad Sadiq and others Vs. The State (1980**

SCMR 203), wherein, it has been held that the courts ordinarily should not decide the bail applications on merits once the trial has commenced.

8. In view of the above, the present bail application is **dismissed**. Since, the earlier direction was not complied with in letter and spirit, therefore, the trial Court is directed to conclude the trial within a period of 30 days positively, from the date of receipt of this order under intimation to this Court through the Registrar.

(MOHSIN AKHTAR KAYANI)
JUDGE

(LUBNA SALEEM PERVEZ)
JUDGE

*Adnan/**