

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

CrI. Misc. No. 663-B of 2020.

Attiq-ur-Rehman

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.
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12-05.2020.

Sardar Taimoor Aslam Khan, Mr Mudassar Abbas,
Advocates for petitioner.
Hafiz M. Atif Khokhar, State Counsel.
Mr Arshad M. Warraich, I.O. with record.

The petitioner Attique-ur-Rehman son of Muhammad Ishaq has sought post arrest bail in case F.I.R. No. 500, dated 18-10-2019 registered under section 9-C of the Control of Narcotics Substances Act, 1997 (hereinafter referred to as "***CNSA of 1997***") at Police Station Koral, Islamabad.

2. Brief facts, as alleged in the FIR are that pursuant to receiving information, the police officials intercepted the petitioner. The search of the shopping bag in possession of the petitioner led to recovery of charas garda, weighing 2250 grams. Hence the instant petition.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has not committed any offence; fake recovery has been planted against the petitioner; the petitioner has been incarcerated for more than one year; section

103 of Cr.P.C. has been violated, as no witness from the public was associated at the time of alleged recovery; allegations against the petitioner are false, frivolous, baseless and concocted; the report under section 173 of Cr.P.C. has been submitted before the learned trial Court; investigations qua the petitioner have been completed and he is no more required for the purpose of further investigations; no incriminating material has been recovered from the petitioner; report of the chemical examiner is still awaited; the petitioner has no criminal history; the petitioner is previously non-convict; there are sufficient grounds for further inquiry into the guilt of the petitioner; hence prays for grant of post arrest bail.

4. The learned State Counsel appeared alongwith Arshad M. Warraich, Inspector. They have contended that; the petitioner is nominated in the FIR with specific role; the petitioner was arrested from the spot; 2250 grams of charas garda was recovered from the petitioner; the trial has commenced and four prosecution witnesses have been examined and remaining witnesses will be recorded shortly; report of Chemical Examiner is positive; substantial quantity of contraband substance has been recovered from the possession of the petitioner; the petitioner has failed to point out any malafide on part of the prosecution; hence urged for dismissal of the present bail application.

5. The learned counsel for the petitioner and the learned State Counsel have been heard and record perused with their able assistance.

6. Perusal of the FIR and available record shows that narcotic substance weighing 2250 grams of garda charas was recovered from the possession of the petitioner and the latter was arrested from the crime scene. The report under section 173 of Cr.P.C. has been submitted before the learned trial Court. Charge has been framed against the petitioner and four witnesses out of six have been examined. There is sufficient incriminating material placed on record to decline post arrest bail. Nothing is available on record to show that the officials may have arrested the petitioner on the basis of malafide. The offence falls within the prohibitory clause of section 497 Cr.P.C. We are, therefore, not inclined to extend the concession of bail. However, we expect that the learned trial Court will endeavour to conclude the trial expeditiously. We also expect that the prosecution as well as the petitioner shall ensure that the proceedings are not delayed.

7. For the above reasons, bail is refused and the instant petition is accordingly ***dismissed***.

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

(AAMER FAROOQ)
JUDGE

(CHIEF JUSTICE)

*Luqman/**