

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Criminal Misc. No.846-B/2020

Muhammad Babar
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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19.02.2020	Mr. Sher Afzal Khan Marwat, Advocate for the petitioner. Dr. Waseem Ahmed Qureshi, Special Prosecutor, A.N.F. Sheraz, Inspector, A.N.F.
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GHULAM AZAM QAMBRANI, J.:- The petitioner (Muhammad Babar S/o Muhammad Rafique) seeks post arrest bail in case F.I.R No.89 dated 28.06.2018 under Sections 9-C of the Control of Narcotic Substances Act, 1997 read with Section 13/20/65 of Arms Ordinance, registered with Police Station A.N.F/RD, North, Rawalpindi.

2. Briefly stated facts of the prosecution's case are that on the complaint of Gohar Nabi Baig, Inspector, Police Station A.N.F RD (North) Rawalpindi, above said F.I.R was registered wherein, it has been alleged that the petitioner was apprehended alongwith narcotic substance, which turned out to be Charas weighing 04Kg. The petitioner was also in possession of a pistol, hence was also booked for the said offence.

3. The petitioner had applied for bail after arrest, which was dismissed on merits by this Court vide order dated 02.01.2020, with a direction to the learned trial

Court for conclusion of the trial within a period of two months. After lapse of two months, the petitioner again sought bail before the learned trial Court, which was also dismissed on 13.04.2020, hence, this petition on statutory ground.

4. Learned counsel for the petitioner, *inter alia*, contended that since the date of arrest, the petitioner is behind the bars; that challan was submitted before the learned trial Court on 31.07.2018 and charge was framed on 19.09.2018 but the trial has not been concluded so far; that the Hon'ble Division Bench of this Court while dismissing Criminal Miscellaneous No.805-B/2019, directed the learned trial Court to conclude the trial within a period of two months from the date of said order; that despite the lapse of two years, the trial has not been concluded, therefore, the petitioner is entitled for grant of bail, on statutory ground.

5. On the other hand, learned special prosecutor A.N.F vehemently opposed the bail petition contending that on certain dates, the petitioner had sought adjournments and that the trial could not be concluded due to the prevailing Covid-19 pandemic situation in the country; that the statements of three out of five prosecution witnesses have been got recorded; that heavy quantity of 04-Kg Charas has been recovered from the petitioner.

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

7. From perusal of record it reveals that the petitioner is involved in an offence under Section 9-C CNSA. Although, first bail application of the petitioner i.e. Criminal Miscellaneous No.805-B/2019 was dismissed vide order dated 02.01.2020 by the learned Division Bench of this Court, with a direction to the learned trial Court to conclude the trial within a period of two months but due to the lockdown and prevailing COVID-19 pandemic situation in the country, the trial could not be concluded within the stipulated period, as such, the delay caused in the conclusion of the trial was not intentional but due to unavoidable circumstances. However, as per the learned Prosecutor ANF, out of five PWs, the statements of three PWs have been got recorded and that every effort shall be made to conclude the trial at the earliest.

8. In view of the above situation, instant bail petition is hereby **dismissed** with a direction to the learned trial Court to conclude the trial within six weeks of receipt of this order. Learned trial Court shall proceed on day-to-day basis, if need be.

(AAMER FAROOQ)
JUDGE

— (GHULAM AZAM QAMBRANI)
JUDGE —

*Rana M. Ift.**