

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 1002-B/2020
Sadeeq Akbar
Versus
The State and another

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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28.09.2020	Mr. Muhammad Ilyas Khan, Advocate, counsel for petitioner. Dr. Waseem Ahmad Qureshi, Special Prosecutor ANF with Kamran S.I., PS RD ANF, North,
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FAIAZ AHMAD ANJUM JANDRAN, J.

Through the instant petition under Section 497 Cr.P.C, petitioner (Sadeeq Akbar), seeks post-arrest bail in F.I.R No 75, dated 09.09.2020, registered under Section 9-C of the Control of Narcotics Substances Act, 1997, at Police Station A.N.F/RD North, Rawalpindi.

02. According to the allegation set-forth in the F.I.R, on 09.09.2020, at about 4:00 a.m., Sheraz Sadiq Inspector ANF alongwith other officials was present near exit of link road of motorway, Islamabad, where, on checking Toyota Hiace bearing registration No.LES-1199 was stopped. One person sitting on front seat of the said vehicle namely Sadeeq Akbar, found doubtful, and on his personal search 1200 grams charas was recovered, hence, this F.I.R.

03. Learned counsel for the petitioner contends that allegation is of 1200 grams charas (with packing material) recovered from his possession, which falls within the parameters of borderline criteria; that he is first offender, having no criminal record; that investigation is complete and petitioner is no more required for

further investigation and that he is behind the bars since his arrest, therefore, entitled for the concession of bail.

04. Conversely, learned Special Prosecutor ANF, has contended that the petitioner is nominated in the FIR and was arrested at the spot with huge quantity of narcotics substance, therefore, not entitled to the concession of bail.

05. Arguments heard, record perused.

06. Perusal of record reveals that 1200 grams charas (*with packing material*) was recovered from the possession of petitioner, which is a borderline case as the quantity of narcotics substance recovered is marginally in excess of 1 kg. In such like cases, the Hon'ble Supreme Court of Pakistan granted bail on the basis of borderline criteria and in this respect reliance is placed on 2020 SCMR 350 (Aya Khan and another Vs. The State) and another judgment reported as PLJ 2018 SC 812 (Saeed Ahmed Vs. The state etc), wherein 1350 grams substance was recovered which marginally exceeds 1 kg and the concession of bail was extended to the accused.

07. In addition, the recovered narcotics substance was weighed by the I.O. alongwith packing material, if the same was weighed without packing material then its weight could be less than the same shown in the F.I.R which also makes the case of the petitioner one of further inquiry.

08. In view of above, the case of the present petitioner/accused requires further

probe and falls within the ambit of subsection (2) of Section 497 Cr.P.C, which entitles him to the concession of bail on this ground too.

09. Admittedly, petitioner has no previous record of narcotics, this fact also extends benefit to him.

10. For what has been discussed above, the instant bail petition is allowed, petitioner (Sadeeq Akbar) is admitted to post-arrest bail subject to furnishing of bail bonds in the sum of Rs.1,00,000/- (Rupees once lakh) with one surety in the like amount to the satisfaction of the learned Trial Court.

11. Needless to mention that this is tentative assessment for the purpose of this petition only, which shall not affect/influence trial of this case in any manner.

(MOHSIN AKHTAR KAYANI) (FIAZ AHMAD ANJUM JANDRAN)
JUDGE JUDGE

A.R.ANSARI