

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Criminal Misc. No.129-B/2020

Mst. Shakeela Begum
Vs.
The State

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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25.02.2020	Hafiz Fazal Rahim, Advocate for the petitioner. Raja Shahid Zafar, SPP and Sheraz Sadiq, Inspector, A.N.F.
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GHULAM AZAM QAMBRANI, J.:- The petitioner, namely Shakeela Begum w/o Sajid Ali, seeks post-arrest bail in case F.I.R No.156/2019, dated 28.07.2019 registered under Section 9-C of the Control of Narcotic Substances Act, 1997, at Police Station A.N.F RD(North) Rawalpindi.

2. Briefly stated facts of the prosecution case are that on the complaint of Muhammad Faizan, Sub-Inspector, Police Station A.N.F RD (North) Rawalpindi, F.I.R No.156/2019 was registered on 28.07.2019 wherein, it has been alleged that on the said day, at about 14:00 Hours, he alongwith Muhammad Imran (Constable), Abid Nawaz (Constable), Aftab Hussain (Constable) and Shagufta Begum (Lady Constable) while on official vehicle bearing no. RIG-1112 was present on official duty at Koh-e-Noor bus stop. In the meanwhile, he received credible spy information that one Shakeela Begum along with her son Shahzad Waheed having substantial quantity

of contraband substance will come from Peshawar through local bus and will supply the same to customer at Chungi No.26, Bus stop, Islamabad. On said information, he alongwith the said officials reached at the place at about 02:00 pm and observed that a woman having a bag in her hand, waiting for someone. On the pointation of informer, she was overpowered with the help of lady constable who disclosed her name as Shakeela Begum. On search, two packets of Charas wrapped with tape were recovered from her handbag. The packets were weighed. The weight of each packet was 1200 grams (total 2400 grams). Hence, the instant bail petition.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has been falsely involved in the instant case with malafide intention of the prosecution; no incriminating material was recovered from the petitioner; there is violation of section 103 of Cr.P.C., as no private witness was associated at the time of recovery proceedings; story as narrated in the FIR is false, frivolous and vexatious; investigation qua the petitioner has been completed and she is no more required for the purposes thereof; the petitioner is previously non-convict and non-record holder; the petitioner has no concern whatsoever with the alleged contraband substance; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the petitioner is

a lady and her case does not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; the case of the petitioner is that of further probe; the offence is not attracted against the petitioner; the petitioner has been incarcerated for almost seven months; further incarceration of the petitioner will not serve any useful purpose; there is no proof of selling of narcotics; sections 20, 21 and 22 of CNSA have been violated; the petitioner is victim of malicious prosecution; hence prayed for the grant of post arrest bail.

4. Conversely, the learned Special Prosecutor A.N.F vehemently opposed the bail petition and contended that; the petitioner was arrested red handed from the crime scene, the substantial contraband substance was recovered from her conscious possession; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the petitioner is nominated in the FIR with specific role; 2400 grams of Chars was recovered from the petitioner, which she had concealed in her hand bag; the petitioner has failed to point out any malafide on part of the prosecution; hence, he has urged for dismissal of the present bail application.

5. We have heard the learned counsel for the parties and have gone through the available record with their able assistance.

6. Perusal of the record reveals that 'Chars' weighing 2400 grams was recovered from the possession of the

petitioner. Allegedly, the petitioner has concealed the contraband substance in her handbag. The petitioner was arrested red handed from the crime scene. The factor of conscious knowledge at this stage obviously cannot be ruled out. Substantial quantity of contraband substance was recovered. Samples of the contraband substance were separated for Chemical Examination and sent for analysis. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court. Report of Chemical Examiner is positive. Charge has been framed and the trial of the case is in progress and will be concluded in near future. There is sufficient incriminating material placed on record to decline post arrest bail.

7. For what has been discussed above, bail is ***refused*** and the instant petition is accordingly ***dismissed***.

8. Needless to mention that this is tentative assessment, which shall not affect trial of this case in any manner.

(AAMER FAROOQ)
JUDGE

(GHULAM AZAM QAMBRANI)
JUDGE

Rana M.I./t.*