

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

Criminal Misc. No. 906-B/2020
Muhammad Sanan
Versus
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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20.08.2020	Mr. Shan Zeb Khan, Advocate for the petitioner. Dr. Waseem Ahmad Qureshi, Special Prosecutor, ANF with Sheraz Sadiq Inspector ANF.
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FIAZ AHMAD ANJUM JANDRAN, J. Through this CrI. Misc. petition, petitioner (Muhammad Sanan) seeks bail after arrest in FIR No.47, dated 07.05.2020, registered under Sections 9-C and 15 of the Control of Narcotics Substances Act, 1997, at Police Station A.N.F./RD North, Rawalpindi.

2. Brief facts, as stated in the FIR are that on 07.05.2020, complainant Sheraz Sadiq received spy information that huge quantity of narcotics is going to be smuggled by the petitioner alongwith a lady in vehicle No.LED-2609 Suzuki Mehran white Color from Peshawar to inner Punjab. On the basis of said information, raiding party reached the stated place at about 17:30 hours and at about 18:00 hours, the said vehicle was intercepted and the petitioner, driving the vehicle, and lady passenger along-with three children were apprehended. On their disclosure, three packets of opium weighing 1100 grams each was recovered from lady purse while 8 packets of charas from the doors of the car were recovered and on weighing 1100 grams from each packet was recovered. Total weighing 3.300 kilograms opium and 8.800 kilograms charas was recovered, hence the instant FIR.

3. Learned counsel for the petitioner contends that petitioner has falsely been implicated in this case while nothing was recovered from his possession. It is further contended that as per Secondary School Certificate petitioner is juvenile, as his date of birth is 16.02.2003; that the petitioner is behind the bars since 07.05.2020 and challan has not been submitted in the Court as yet; therefore, is entitled for the grant of bail.

4. Conversely, learned Special Prosecutor ANF contends that the petitioner is nominated in the FIR, arrested at the spot and huge quantity of narcotics substance was recovered; therefore, he is not entitled to the concession of bail.

5. Arguments heard, record perused.

6. Perusal of record reveals that petitioner was driving the car from which 3.300 kilograms opium and 8.800 kilograms charas was recovered. The petitioner is nominated in the FIR and the huge quantity of narcotics substance recovered falls within the ambit of prohibitory clause of Section 497 Cr.P.C and entails death punishment, life imprisonment or imprisonment up to 14 years. Therefore, in such type of cases, no benefit could be extended to the petitioner/ accused.

7. The sample was sent for chemical examination on 08.05.2020 and the report of the Chemical Examiner confirms that the recovered substance was opium and charas this, too, goes against the petitioner.

8. As per domicile, Form-B and SSC Certificate, the date of birth of the petitioner is 16.02.2003 while the occurrence was allegedly took place on 07.05.2020, which means that at the

relevant time, petitioner was more than 17 years of age.

9. As per Section 6(4) of the Juvenile Justice System Act, 2018, when a juvenile more than 16 years of age is arrested or detained for a heinous offence, he may not be released on bail. The case of the petitioner squarely attracts the section *ibid* as he was of the age of more than 17 years at the time of alleged offence, which otherwise falls within the ambit of prohibitory clause of Section 497 Cr.P.C and entails death punishment, life imprisonment or imprisonment up to 14 years. Therefore, in such type of cases, no benefit of tender age could be extended to the petitioner/ accused.

10. In view of above, the petitioner is not entitled to the concession of post arrest bail. Therefore, instant post arrest bail petition is **dismissed**. However, jail authorities are directed to remit the petitioner in Juvenile Rehabilitation Center in jail.

(MOHSIN AKHTAR KAYANI)
JUDGE

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

A.R. ANSARI