

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

Criminal Misc. No. 835-B/2020
Muhammad Irfan
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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21 16.07.2020	Mr. Ali Hasnain Bhatti, Advocate for the petitioner. Dr. Waseem Ahmad Qureshi, Special Prosecutor, ANF.
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FIAZ AHMAD ANJUM JANDRAN, J. Through the instant CrI. Misc., petitioner (Muhammad Irfan) has applied for post arrest bail in case FIR No.09, dated 06.06.2020, registered under Sections 9-C of the Control of Narcotics Substances Act, 1997 ("Act of 1997"), at Police Station A.N.F., Islamabad..

2. Brief facts, as stated in the instant FIR are that on 06.06.2020, Taqi Abbas, Inspector/SHO, PS ANF Islamabad, received spy information regarding transportation of huge quantity of narcotics by Muhammad Noman, co-accused and Irfan, present petitioner. Upon this, Inspector constituted a raiding party and reached the place, pointed by the informer i.e. Margalla Road, Saidpur Village More, where at about 06:10 pm, both Noman and present petitioner emerged; on seeing the raiding party, both tried to escape but were overpowered and in consequence of disclosure, petitioner took out a packet wrapped in polythene envelope containing opium from right fold of his shalwar which on weighing came to 1500-grams. Likewise, co accused Noman also took out a packet of 1500-grams of opium from right fold of his shalwar.

3. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the case; that no such occurrence had taken place; that petitioner was arrested from his house; that the contraband weighing 1500 grams was allegedly recovered from his pocket which makes the case one of further inquiry; that the alleged quantity marginally exceeds 1000 grams and the case is of border line between Section 9(b) and 9(c) of the Act of 1997; that the report of chemical examiner is awaited, therefore, petitioner is entitled to the concession of bail. Learned counsel placed reliance upon case laws reported as "Fida Muhamamd Vs. The State" (2001 MLD 1731) and "Dil Baz Khan Vs. The State" (2008 P. Cr. L J. 1437).

4. Conversely, learned Special Prosecutor ANF repelled the above submissions. It is argued that ground with regard to recovery of alleged contraband from the pocket of the petitioner is misconceived and contrary to factual position as the narcotics was allegedly took out by the petitioner from right fold of his shalwar and not from the pocket; that the petitioner was arrested red-handed from the spot with huge quantity of contraband narcotics and that the trial is in progress, therefore, petitioner is not entitled to the concession of bail.

5. Arguments heard, record perused.

6. The tentative assessment of the record reveals that 1500 grams "opium" was recovered from the possession of the petitioner. The petitioner is nominated in the FIR and the offence falls within the prohibitory clause of Section 497 Cr.P.C and entails death punishment, life

imprisonment or imprisonment up to 14 years. The ground that the petitioner was picked up from his house warrants recording of evidence and cannot be considered at this stage. Moreover, the challan has been submitted before the learned Trial Court on 29.06.2020 and the trial is likely to commence. The offence alleged is heinous and cannot be taken lightly.

7. The case law relied upon by the learned counsel do not extend any help to the petitioner due to having distinct facts and circumstances.

8. In view of above, petitioner is not entitled to the concession of post arrest bail. Therefore, instant post arrest bail petition is dismissed. However, the petitioner has a legitimate right that his case is to be decided as early as possible, therefore, while relying upon case law reported as "2011 SCMR 1332 (Rehmatullah and another Vs. the State)", the learned Trial Court is directed to conclude the trial within a period of six months after receipt of order of this Court under intimation to this Court.

9. The learned Prosecutor ANF apprised that the video link facility has been arranged in the Trial Court, therefore, the ANF Authorities are directed to produce all the witnesses on the next date of hearing to ensure speedy conclusion of the trial.

(MOHSIN AKHTAR KAYANI)
JUDGE

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE