

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 838-B of 2020.

Abdul Razzaq Qureshi.
VERSUS
The State, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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27.07.2020. Mr Muhammad Zafar Khokhar, Mr Sohail Akbar Chaudhry
and Mr Naeem Abdullah, Advocates for the petitioner.
Mr Muhammad Amin Feroz Khan and Ch. Talib Hussain,
Advocates for the respondent / Customs.
Mr Najam Abbas, Inspector/I.O. Customs.

The petitioner Abdul Razzaq Qureshi son of Imtiaz Ahmed
Qureshi has sought post arrest bail in case, F.I.R. No. 10, dated
17.06.2020, registered under sections 2(s), 156(1)(8)(32)(82) and 178 of
the Customs Act, 1969 at Police Station Customs Intelligence and
Investigation (Headquarter), Islamabad.

2. Brief facts, as narrated in the FIR are that pursuant to
receiving information a consignment/shipment said to have been imported
from Hong Kong in the name of M/s Agha Khan Foundation was seized
from outside the customs bonded area at the cargo section of Islamabad
International Airport. It was alleged that the said shipment/goods had
been clandestinely taken out of the bounded area without payment duty
and taxes. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; allegations against the latter are baseless, false and fabricated; the petitioner is innocent and has no concern whatsoever with the alleged offences; the petitioner is a clearing agent and has a valid license; there is no evidence against the petitioner; story as narrated in the FIR is false, frivolous and concocted; offences are not attracted against the petitioner; offences do not come within the ambit of prohibitory clause of section 497 of Cr.P.C.; the petitioner has no criminal record; no incriminating material was recovered from him; there is no direct or indirect evidence against him; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; further incarceration of the petitioner will not serve any useful purpose; the petitioner has been incarcerated for more than one month; the petitioner has been involved in the instant case with malafide intention and ulterior motives of the prosecution; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; despite having been on physical no incriminating material was affected from the petitioner; no case has ever been registered against him other than the present case; hence the learned counsel urges the petitioner to be released on bail.

4. On the other hand, the learned counsels for the complainant appeared alongwith Najam Abbas, Inspector/I.O. Customs. They have contended that; the petitioner is involved in the instant case; the offence under section 156(8) falls within the prohibitory clause of section 497 Cr.P.C.; sufficient material is available on record to connect the petitioner with the commission of offences; the petitioner has committed a heinous

offence and is not entitled to the concession of bail at this stage. Hence, prayed for dismissal of the instant bail petition.

5. The learned counsels have been heard and record perused with their able assistance.

6. Admittedly, the petitioner is a licensed customs clearance agent. Sufficient incriminating material could not be shown to indicate involvement of the petitioner in preparing forged documents. Moreover, the Investigating Officer was not able to answer the query how the consignment / goods could have been taken out from a well guarded area. It has not been denied that customs officials are posted at the gates and it is virtually impossible to take out imported goods without clearance. The role of the petitioner and his nexus with the alleged offences needs further probe. Despite being on physical remand no incriminating material was recovered from the petitioner. Whether or not the petitioner was involved in the commission of the alleged offences needs further probe. Investigations qua the petitioner have been completed and, therefore, his further incarceration will not serve any useful purpose. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court. The petitioner has no criminal record nor anything has been placed on record to show that he may abscond or tamper with evidence, if released on bail. This Court is, therefore, of the opinion that the petitioner is entitled to be released on bail.

7. It has been aptly observed by the august Supreme Court in the case of '*Manzoor and 4 others versus The State*' [PLD 1972 SC 81] as follows;

"The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run."

In the light of the facts and circumstances of the present case, refusal of bail will tantamount to punishing the petitioners.

8. In the above circumstances, this petition is ***allowed*** and the petitioner is ***admitted*** to bail, subject to furnishing bail bonds in the sum of Rs.500,000/- (Rupees five hundred thousand only) with one surety in the like amount to the satisfaction of learned trial Court.

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

CHIEF JUSTICE

*Asad K/**