

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

Criminal Misc. No. 1057-B/2020

Rameez Raja
Versus
The State.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
(02)	13.10.2020	Ms. Huma Jamil Babar, Advocate for Petitioner. Mr. M. Sohail Khursheed, State Counsel. Mr. Irshad Ahmad, SI.

Through this criminal miscellaneous post arrest bail, the petitioner / Rameez Raja is seeking bail in case FIR No. 438/20, dated 10.09.2020, U/S 9-B CNSA, 1997 P/S Bahara Kahu, Islamabad, registered on the complaint of Irshad Ahmed, S.I, whereby, a heroin weighing 460 grams was recovered from the personal search of the petitioner on 10.09.2020 when he was standing at Col. Amanullah Road, near PSO Pump Bahara Kahu, Islamabad.

02. Learned counsel for the petitioner contends that the offence does not fall within the prohibitory clause of section 497 Cr.P.C. Even the allegation leveled against petitioner is to the extent of 460 grams of heroin which falls U/S 9-B CNSA and as such the challan has been submitted in Court and the petitioner is no more required for the purpose of the investigation, however, the case of petitioner falls within concept of further inquiry as the final chemical examination report is still awaited and it is yet to be concluded, as to whether the recovered contraband is heroin or something else.

03. Conversely, learned state counsel and the Investigation Officer contend that challan has already been

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04. Arguments heard record perused.

05. Perusal of the record reveals that petitioner has been arrested in criminal case of FIR No. 438/2020 U/S 9-B CNSA, 1997 for possessing 460 grams of heroin when he was standing at Col. Amanullah Road, near Petrol Pump, Bahara Kahu, Islamabad. It has been admitted by the Investigation Officer before this court that the sample separated from the recovered heroin was sent to Forensic Science Laboratory for chemical examination but the result is still awaited. Even otherwise the case of accused / petitioner falls within purview of Section 9-B of CNSA, 1997, whereas, the maximum punishment for the offence is provided as 07 years and fine, as such the challan has already been submitted in Court and petitioner is no more required for investigation who is behind the bars since his date of arrest i.e. 10.09.2020. In such eventuality the apex Court in reported Judgment “**2020 SCMR 431 titled as Murad Khan VS The State**” has granted post arrest bail to the accused having possession of 600 grams of heroin, similarly, the apex Court has granted the post arrest bail in case of recovery of 1014 grams of heroin from the possession of accused, reported as “**2016 SCMR 1424 titled as Ateeb Ur Rehman v/s The State and others**”, as such the Investigating Officer as well as record is silent qua any other criminal case pending against the petitioner, therefore, in such eventuality petitioner is entitled for concession of bail.

06. We have also gone through the order passed by learned Additional Sessions Judge-V (East), Islamabad who has rejected the post arrest bail application with the

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observation “*without touching the merits*”, this aspect has
been considered in juxtaposition with the bail order which
reveals that the learned Additional Sessions Judge has not
gone through the record in a proper manner.

07. In view of above, instant application of post arrest
bail is allowed subject to furnishing the one surety of
Rs. 100,000/- (One Hundred Thousand) in the like amount
to the satisfaction of the trial Court.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

Bilal

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