

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

**Crl. Misc. No.149-B/2020**

Usman Khan

*versus*

The State & another

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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(2)

04.03.2020

Barrister Saud Khan, Advocate for petitioner.

Dr. Waseem Ahmad Qureshi, Special Prosecutor, ANF.

Sheraz, Inspector, ANF.

**MOHSIN AKHTAR KAYANI, J:** The petitioner

through this criminal miscellaneous petition has prayed for his post arrest bail in case FIR No.70, dated 26.05.2018, under Section 9-C CNSA, 1997, P.S. ANF-RD (North), Rawalpindi.

2. Brief facts as referred in the aforesaid FIR are that on 26.05.2018, at about 03:00 p.m., the police party on receiving spy information arrested the petitioner namely Usman Khan along with Abdul Rehman/co-accused from opposite side of Irfan CNG Station, Tramri, Islamabad, who were found in possession of Charas weighing 2400 grams and 1500 grams, respectively. Accordingly, the aforesaid FIR No.70/2018 was registered against the said two accused person. Hence, the instant criminal miscellaneous petition for post-arrest bail.

3. Learned counsel for petitioner contends that the petitioner has falsely been implicated in the instant case and during the alleged recovery proceedings no private person was associated, rather all the witnesses were police officials; that the report of chemical examiner with respect to allegedly recovered Charas is still awaited, which creates doubt in the prosecution case and as such, the petitioner is behind the bars since his arrest and keeping him behind the bars would serve no purpose, even otherwise, the investigation has been

completed and there is no likelihood of petitioner's abscondance or tempering with the prosecution evidence, therefore, the petitioner may kindly be enlarged on bail till final decision of the case. Moreover earlier direction of this Court for conclusion of trial has not been complied with due to non-availability of Trial Court, hence, the petitioner is also entitled for concession of post arrest bail on this score.

4. Conversely, learned Special Prosecutor ANF opposed the instant filing of criminal miscellaneous petition for post arrest bail and contended that the petitioner was caught red handed while in possession of heavy quantity of Charas; that sufficient material has been collected to link the petitioner with the commission of offence under Section 9-C CNSA, 1997, which falls within the prohibitory clause of Section 497 Cr.P.C., therefore, releasing the petitioner on bail would defeat the purpose of settled law.

5. Arguments heard, record perused.

6. Tentative bird's eye view of record reflects that the petitioner is nominated accused in case FIR No.70, dated 26.05.2018, under Section 9-C CNSA, 1997, P.S. ANF-RD (North), Rawalpindi, whereby he was in possession of 2400 grams Charas. Earlier post arrest bail petition of the petitioner i.e. Crl. Misc. No.153/2019 was dismissed by this Court vide order dated 07.05.2019 on merits with direction to Trial Court to conclude the trial on or before 31.12.2019, however, the direction could not be complied with due to non-availability of the Presiding Officer, however, Federal Government has now appointed the Presiding Officer, who has assumed the charge of the post of Judge Special Court, CNS, Islamabad during pendency of the instant post arrest bail petition, therefore, the ground raised by the petitioner for non-compliance of direction is not justified at this stage. Even otherwise, bail cannot be granted when the direction has not

been complied with. Reliance is placed upon PLD 2016 SC 11 (Nisar Ahmed vs. State). Even otherwise, this Court has already appreciated merits of the case and the petitioner is not entitled for concession of post arrest bail.

7. For what has been discussed above, instant petition for post arrest bail is dismissed. However, learned Trial Court seized with the matter is directed to conclude the trial within a period of 03 months from the date of receipt of copy of this order under intimation to this Court.

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(LUBNA SALEEM PERVEZ)  
JUDGE

(MOHSIN AKHTAR KAYANI)  
JUDGE

R. Anjam.