

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

Criminal Misc. No. 907-B/2020
Raja Zaheer Akbar Kiani
Versus
The ANF

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 Crl. Misc. petition, petitioner (Raja Zaheer Akbar Kiani) seeks bail after arrest in FIR No.82, dated 07.06.2018, 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 07.06.2018 complainant Wajid Hameed S.I. received spy information that huge quantity of narcotics is going to be smuggled by the petitioner in vehicle No.-AFC-805 Toyota Corolla white Color from Gujar Khan to T-Chowk Islamabad. On the basis of said information, raiding party reached the stated place. At about 12:00 hours, the vehicle was intercepted and the petitioner, driving the vehicle, was apprehended. On his disclosure, heroin weighing two kilograms was recovered from a blue colour travelling bag, retrieved from the trunk of the car, hence the instant FIR.

3. Learned counsel for the petitioner contends that earlier criminal Miscellaneous petition No.747/2019 was dismissed on merits while other two bail petitions bearing No. 740/2020 and 800/2020 were withdrawn; that Criminal

Petition No.68 of 2020 was withdrawn from the Hon'ble Supreme Court of Pakistan on 11.02.2020; that the direction was issued to the learned Trial Court for earlier disposal of the case vide order dated 24.12.2019 but the same has not been complied with. Further contends that no specific date has been granted by the learned Trial Court on the request of the petitioner while PWs were also not present, therefore, further delay in such like matters will not be useful; that the petitioner is behind the bars since 07.06.2018 and the trial has not been concluded despite direction, therefore, petitioner is entitled for the grant of bail on the ground of delay in conclusion of trial.

4. Conversely, learned Special Prosecutor ANF contends that the petitioner is nominated in the FIR, arrested at the spot and 2 kilograms heroin was recovered from the accused; that the charge has been framed on 08.03.2019 and 11 adjournments were obtained by the accused and that the evidence will be recorded shortly, therefore, he is not entitled to the concession of bail.

5. Arguments heard, record perused.

6. Perusal of record reveals that 2 kilograms heroin was recovered from the possession of the petitioner. The petitioner is nominated in the FIR and the 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 especially when the trial is in progress.

7. The sample was sent for chemical examination on 08.6.2018 and the report of the Chemical Examiner confirms that the recovered substance was heroin this, too, goes against the petitioner.

8. The trial could not be concluded as per the direction issued by this Court vide order dated 24.12.2019 as the Court remained vacant due to non availability of the learned Presiding Officer while court work also remained in-halt due to pandemic of COVID-19, therefore, the delay cannot be attributed to the Prosecution or the Court.

9. Record further reveals that on 4-5 occasions, the PWs were present but the case was adjourned on the request of the petitioner due to non-availability of learned defence counsel.

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, 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 **three months** after the receipt of this order under intimation to this Court by proceedings with the case on day-to-day basis.

11. 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

A.R. ANSARI