

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Crl. Misc. No. 143-B of 2020.

Amaan Ullah.

Vs

The State, etc.

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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02.	09.03.2020.	Mr Sher Afzal Khan Marwat, Advocate for the petitioner. Dr. Wassem Ahmad Qureshi, Special Prosecutor, ANF. Mr Naseer Ahmad, S.I.
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The Petitioner Amaan Ullah son of Nazar Gul has sought post arrest bail in case F.I.R. No. 60, dated 23.03.2019, registered under section 9-C of the Control of Narcotics Substances Act, 1997 (hereinafter referred to as "**CNSA of 1997**") at Police Station ANF/RD, North, Rawalpindi.

2. Brief facts, as alleged in the FIR are that the petitioner was arrested pursuant to recovery of 2400 grams of narcotics / charas garda. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter has been falsely involved in

the instant case; the petitioner has no concern whatsoever with the alleged offence; there is violation of section 103 of Cr.P.C. as no private witness was associated during recovery proceedings; story as narrated in the FIR is false, frivolous and vexatious; the petitioner has been incarcerated for almost one year; investigation qua the petitioner has been completed and he is no more required for the purposes thereof; the petitioner is innocent; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; there is no chance of completion of prosecution evidence, as the post of Judge Special Court is vacant since long; there is no proof of selling of the narcotics; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; further incarceration of the petitioner will not serve any useful purpose; the petitioner has no criminal record; there is no eye witness of the alleged occurrence; no incriminating material was effected from the petitioner; recovery has been planted; offence is not attracted against the petitioner; offence does not fall within the prohibitory clause of section 497 of Cr.P.C.; the petitioner is victim of malicious prosecution; the case against the petitioner is that of further probe; bail concession cannot be held as a punishment; hence prayed for the grant of post arrest bail.

4. The learned Special Prosecutor, ANF appeared alongwith Naseer Ahmed, SI. They have contended that; the petitioner is nominated in the FIR;

specific role has been attributed to the petitioner; the petitioner was arrested red handed at the crime scene; recovery of 2400 grams of charas garda was recovered from possession of the petitioner; complete report under section 173 of Cr.P.C. has been submitted before the learned trial Court and trial will be concluded shortly; report of Chemical Examiner is positive; the petitioner has failed to point out any malafide on part of the prosecution; hence he has urged for dismissal of the petition.

5. The learned counsel for the petitioner and the learned Special Prosecutor, ANF has been heard and record perused with their able assistance.

6. Perusal of the record shows that 'charas garda' weighing 2400 grams was recovered from the petitioner, which was concealed in a plastic bag. The petitioner was arrested from the crime scene. The factor of conscious knowledge at this stage obviously cannot be ruled out. Substantial quantity of contraband substance was recovered from possession of the petitioner. Samples of the contraband substance were separated for Chemical Examination and sent for analysis. Report of the Chemical Examiner has confirmed that the material is narcotics. The report under section 173 of Cr.P.C. has been submitted before the learned trial Court. There is sufficient incriminating material placed on record to decline post arrest bail. We have been informed that there are six

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witnesses and it is expected that the trial of the case will be concluded shortly. We are, therefore, not inclined to extend the concession of bail. However, we expect that the learned trial Court will endeavour to record the prosecution witnesses expeditiously. We also expect that the prosecution as well as the petitioner will ensure that trial is not delayed.

7. For the above reasons, bail is ***refused*** and the instant petition is accordingly ***dismissed***.

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.

(LUBNA SALEEM PERVEZ)
JUDGE

(CHIEF JUSTICE)

*Asad K/**