

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

Crl. Misc. No.817-B/2020

Jahangir 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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13.07.2020

Raja Amjad Ghayas Dhanyal, Advocate for petitioner.

Mr. Muhammad Atif Khokhar, State Counsel.

Abdul Ghafoor, Inspector, CIA.

MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous petition, the petitioner has prayed for post arrest bail in case FIR No.235, dated 26.04.2020, under Section 9-C CNSA read with Section 170/171 PPC, P.S. Tarnol, Islamabad.

2. Brief facts as referred in the instant FIR are that on 26.04.2020, the petitioner was apprehended on receiving spy information while in possession of 1150 grams of heroin packed in a white shopper, from which 10 grams of heroin was separated for the purpose of chemical examination. During the personal search of the petitioner, a mobile phone (Oppo) was recovered from the petitioner, in which the petitioner showed his picture in police uniform and introduced himself as police officer, however he could not produce any proof in this regard. Accordingly, the case FIR No.235/2020 has been registered. The petitioner applied for his post arrest bail before the learned Sessions Judge, Islamabad, which was declined vide order dated 21.05.2020. 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 as

the petitioner has no concern whatsoever with the allegation offences or recovery; that the contents of FIR clearly spell out that petitioner has been apprehended from the area of Tarnol, while as per the mobile data and private witness the petitioner has been arrested from Wahdat Colony, Taxila; that the investigation of the case has been completed and petitioner is no more required for further investigation of the case, even otherwise, petitioner is behind the bars since his arrest, as such, there is no chance of abscondance of petitioner or tempering with the evidence at the hands of petitioner, therefore, petitioner may kindly be released on bail till final disposal of the case.

4. Conversely, learned State Counsel opposed the filing of instant post arrest bail application on the grounds that petitioner has been caught red handed while in possession of huge quantity of heroin; that the prosecution has collected sufficient evidence to connect the petitioner with the commission of offence, even otherwise, the trial is expected to be concluded in near future, therefore, the instant post arrest bail application may be dismissed.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that the petitioner is directly nominated in this case with the allegation of possession of narcotics (heroin) weighing 1150 grams, however, when the petitioner was confronted with the recovery, he introduced himself being a police official through photograph recovered from his mobile. As a result of the same, petitioner was further confronted by the police officials at the time of his arrest to justify official position of the petitioner through any office card or identity but he failed to do so, therefore, offences U/S 170 & 171 PPC have been included in the FIR.

7. We have gone through the record with able assistance of learned counsel for the petitioner as well as learned State Counsel, whereby the petitioner was found in possession of 1150 grams of heroin. The accumulative effect of this case reflects that the petitioner was personating himself as public servant, holding senior position of police department, which has been justified from his recovered mobile phone at the time of his arrest, and under the garb of said position, he was transporting the contraband. Challan has been submitted in the court, even the recovered contraband has been declared to be heroin by the Chemical Examiner, *prima facie*, the petitioner is connected with offence U/S 9-C, CNSA 1997, which entails capital punishment. The offence with which the petitioner has been charged is non-bailable and even in terms of Section 51 of CNSA, 1997 restriction has been imposed for grant of post arrest bail in such type of cases.

8. In view of the above, the petitioner is not entitled for grant of post arrest bail, therefore, the instant petition is hereby DISMISSED. However, while relying upon 2011 SCMR 1332 (Rehmat Ullah vs. The State and another), learned Trial Court seized with the matter is directed to conclude the trial on or before 31.12.2020, under intimation to this Court.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.