

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

Crl. Misc. No.86-B/2020

Noor Zaib
versus
The State

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	Raja Shahzad Awan, Advocate for petitioner. Dr. Waseem Ahmad Qureshi, Special Prosecutor, ANF. Sheraz, Inspector, ANF.
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MOHSIN AKHTAR KAYANI, J: The petitioner through this criminal miscellaneous petition has prayed for his post arrest bail in case FIR No.158, dated 28.07.2019, under Section 9-C/15 CNSA, 1997, P.S. ANF-RD (North), Rawalpindi.

2. Brief facts as referred in the aforesaid FIR are that on 28.07.2019, at about 05:40 p.m., the police official on receiving spy information arrested Noor Zaib/petitioner and Saddam Hussain/co-accused while each in possession 2500 of grams of Heroin. Accordingly, the aforesaid FIR No.158/2019 was registered against the said accused persons. 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 criminal case as the petitioner has no nexus with the alleged recovery of contraband and as such, the petitioner is behind the bars since his arrest and he is no more required for the purpose of investigation, therefore, he may be enlarged on bail till final decision of the instant criminal case.

4. Conversely, learned Special Prosecutor ANF opposed the filing of instant criminal miscellaneous petition for post arrest bail and contended that the petitioner was caught red handed while in possession of heavy quantity of contraband; that there is sufficient evidence to connect the

petitioner with the commission of offence under Section 9-C/15 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. Cursory glimpse of record reflects that the petitioner was apprehended red-handed while in possession of 2500 grams Heroin on 28.07.2019 by ANF Authorities near 26 number Chungi bus stop GT Road, Islamabad. Recovery memo was prepared on the spot and sample of recovered contraband was subsequently tested and found positive by the Chemical Examiner. The prosecution witnesses, who had witnessed the alleged recovery had no ostensible reason to falsely implicate the petitioner in present case. Case against the petitioner falls within purview of section 51 of the Control of Narcotic Substances Act, 1997, under which question of post arrest bail cannot be considered on the touch stone of section 497, Cr.P.C. Reliance is placed upon 2017 SCMR 161 (Muhammad Akhtar vs. The State and others).

7. Challan has been submitted before the Court, even charge has been framed on 09.01.2020 as such the trial is in progress and in such like cases the Courts should not grant bail rather it would be appropriate to issue direction to Trial Court for early conclusion of trial. Reliance is placed upon 2011 SCMR 1332 (Rehmat Ullah vs. The State & another).

8. For what has been discussed above, the 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 06 months from the date of receipt of copy of this order under intimation to this Court.

(LUBNA SALEEM PERVEZ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

R. Anjam.