

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 717-B of 2020.

Jahangir Khan.
VERSUS
The State.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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03.06.2020. Malik Muhammad Ajmal Khan, Advocate for the petitioner.
Dr. Waseem Ahmed Qureshi, Special Prosecutor, ANF.
Mr Naseer, Inspector/I.O. ANF with record.

The petitioner Jahangir Khan son of Muhammad Ayub has sought post arrest bail in case, F.I.R. No. 78, dated 13.04.2019, registered under section 9-C and 15 Control of Narcotics Substance Act, 1997 (hereinafter referred to as the "**Act of 1997**"), at Police Station ANF(RD) North, Rawalpindi.

2. Brief facts, as narrated in the FIR are that pursuant to an information, officials of the Anti-Narcotics Force, intercepted a vehicle, which was being driven by the petitioner. The search of the vehicle led to recovery of 'opium' and 'charas' weighing 13.200 kilogram and 4.800 kilogram, respectively. Hence the instant petition.

3. The learned counsel for the petitioner has contended that; the latter is innocent; the petitioner has no criminal record; the petitioner has been incarcerated for the last about fourteen months; the petitioner has not committed any offence; the petitioner has been falsely involved in

the instant case; there is no direct or indirect evidence against the petitioner; no incriminating material was recovered from the petitioner; the case against the petitioner is false, frivolous and vexatious; the petitioner has been involved in the instant case with ulterior motives; the petitioner has no concern whatsoever with the alleged offence; story as narrated in the FIR is concocted; the co-accused has been enlarged on bail vide order, dated 29.05.2019 and the petitioner is also entitled to the same relief, keeping in view the rule of consistency; the petitioner has maliciously been involved in the instant case; offence does not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; there is no evidence of sale/purchase of contraband substance; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the petitioner is ready to furnish surety to the satisfaction of the Court; recovery if any has been affected is fake and planted; the petitioner is not the owner of the vehicle from which the alleged recovery has been affected; there appears no reasonable ground for believing that the petitioner has committed any offence; there are sufficient grounds for further inquiry into the guilt of the petitioner. Hence urges for the grant of post arrest bail.

4. The learned Special Prosecutor, ANF appeared alongwith Naseer, Inspector. They have opposed the grant of bail. It is contended that; substantial quantity of contraband substance was recovered; the petitioner is one of the member of gang, which is engaged in sale of the contraband substance; the petitioner was arrested from the crime scene

alongwith substantial contraband substance; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the agency had no previous enmity with the petitioner; the officials are competent witnesses; hence, they have opposed the grant of bail.

5. We have heard the learned counsels for the parties and perused record with their able assistance.

6. Perusal of the record shows that 'opium' and 'charas' weighing 13.200 grams and 4.800 grams respectively were recovered from the petitioner. Allegedly, the contraband substance was concealed in secret cavities of the vehicle. The factor of conscious knowledge at this stage obviously cannot be ruled out. Substantial quantity of contraband substance was recovered. Samples of the contraband substance were separated for Chemical Examination and sent for analysis. The report of Chemical Examiner was positive. There is sufficient incriminating material placed on record to decline post arrest bail. Charge has been framed and the trial of the case is expected to be concluded shortly. So far as the co-accused namely, Zeeshan Sami is concerned, he has been enlarged on bail being not nominated in the FIR and his case is distinguishable. He was involved in the instant case being owner of the vehicle from which contraband substance was recovered. The said accused was the brother-in-law of the present petitioner. We have been informed that there are seven witnesses who are to be examined in this case. We are, therefore, not inclined to extend the concession of bail. However, we expect that the learned trial Court will endeavour to conclude the trial 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.

(AAMER FAROOQ)
JUDGE

(CHIEF JUSTICE)

*Asad K/**