

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

Crl.Misc.No.1041-B of 2020

Saif Ali Khan

Versus.

TheState

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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13.10.2020

Ch. Muhammad Shoaib Advocate for the petitioner.
Dr. Waseem Ahmed Qureshi, Special Prosecutor
A.N.F with Naseer, S.I., A.N.F.

Through the instant bail petition, the petitioner, Saif Ali Khan, seeks post-arrest bail in case F.I.R No.59, dated 06.07.2020, offence under Section 9-C/15 of The Control of Narcotic Substances Act, 1997, (hereinafter be referred to as "CNSA") registered at Police Station A.N.F/RD North, Rawalpindi.

2. Briefly stated facts of the prosecution case are that on 06.07.2020, a spy information was received to the complainant, Naseer Ahmed, Sub-Inspector, that the petitioner alongwith one Rafee Ullah will pass drug to their customers at Rabi Centre, Bahria Town, Islamabad, at about 06:00 pm. On receiving such information, a raiding party was constituted and started search. In the meanwhile, at about 17:45, two persons were overpowered at the parking area of Rabi Centre, Bahria Town, Islamabad, and from the shoulder bag of co-accused Rafee Ullah, amphetamine weighing 1500 grams was recovered, whereas from the personal search of present petitioner, 500 grams amphetamine, packet wrapped in khaki insulation tape was recovered, out of which 10 grams were separated

for chemical analysis purpose.

3. Learned counsel for the petitioner contends that the petitioner is innocent and has falsely been involved in the instant case; that nothing incriminating has been recovered from him; that he has no concern with the alleged narcotics. Further submits that he is previously non-convict; that he is behind the bars since his arrest, investigation has already been completed and the petitioner is no more required for further investigation.

4. On the other hand, learned Special Prosecutor ANF, has vehemently opposed the contentions raised by the learned counsel for the petitioner and contended that narcotics has been recovered from the petitioner and his co-accused. Further argued that the petitioner has failed to point out any ill-will or malafide on the part of the ANF officials with regard to his false implication in the case.

5. Arguments heard, record perused.

6. From the tentative assessment of record, we have noticed that 1500 grams contraband have been recovered from co-accused Rafee Ullah and 500 grams amphetamine have been allegedly recovered from the personal search of petitioner, which was in Khaki packet wrapped with insulation tape, which falls under Section 9-b of CNSA. Recovery has been separately effected from the petitioner and his co-accused, therefore, at this stage, the petitioner cannot be held responsible for the recovery of 1500 grams amphetamine allegedly recovered from the co-accused, which fact shall be determined after recording of evidence by the learned trial Court,

therefore, case of the petitioner calls for further inquiry in terms of Section 497 Cr.P.C. The investigation has been completed; petitioner has been sent to judicial custody. He is no more required for further probe or interrogation. There is no criminal history of petitioner.

7. The Hon'ble Supreme Court of Pakistan, in case reported as "Manzoor and 4-others Vs. The State" (PLD 1972 Supreme Court 81), observed as follows:-

"It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run."

8. In view of above, this petition is **allowed**. The petitioner namely Saif Ali Khan is admitted to post arrest bail subject to his furnishing bail bonds in the sum of Rs.2,00,000/- Rupees two lacs only with one surety in the like amount to the satisfaction of the learned Trial Court.

9. It is needless to mention here that the observations made hereinabove are tentative in nature and shall not hamper the trial.

(AAMER FAROOQ)
JUDGE

(GHULAM AZAM QAMBRANI)
JUDGE

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