

Form No: HCJD/C-121  
**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

Crl. Misc. No.141-B of 2021

Mst. Shamim Akhter  
Vs.  
The State

| S. No. of order/<br>proceedings | Date of order/<br>Proceedings | Order with signature of Judge and that of parties or<br>counsel where necessary. |
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| 03. | 08.03.2021 | Rana Khawar Hussain, Advocate for the<br>petitioner.<br>Ms. Khadija Ali, learned State Counsel with Tahir<br>Khan Niazi, S.I. |
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**TARIQ MEHMOOD JAHANGIRI, J.** The

petitioner, Mst. Shamim Akhter, seeks bail after  
arrest in case FIR No.440, dated 03.10.2020, for  
offence under Section 9-C of Control of Narcotic  
Substances Act (C.N.S.A.) 1997, registered at  
Police Station Karachi Company Islamabad.

2. Brief facts of the case are that on  
03.10.2020, the petitioner was apprehended by  
the police with contraband material i.e. heroin  
2110-gram, Ice 20-gram and 26-dancing tablets  
from her possession. Hence this F.I.R.

3. Learned counsel for the petitioner *inter alia*  
contends that accused being female is entitled for  
extra ordinary relief; petitioner is not involved in  
any criminal case; investigation of the case has  
been completed; and the petitioner is entitled for  
relief of bail after arrest.

4. On the other hand, learned State Counsel  
repelled the petition by stating that the petitioner  
has committed a heinous crime. Offence falls

under the prohibitory clause of section 497 Cr.P.C. and there appears no material available on record to declare the case as one of further inquiry so the petitioner is not entitled for concession of bail after arrest.

5. Arguments heard. Record perused.

6. The petitioner being woman was arrested by the police on 03.10.2020 and the police has submitted report under Section 173 Cr.P.C. before the Court. The Investigating officer has informed that on 12.10.2020, the parcels of the samples of recovered substance have been sent to the National Institute of Health Laboratory Islamabad, for chemical examination but till today the said laboratory has not given any finding / report regarding the said samples. As there is no report of chemical examiner / laboratory on record, thus it cannot be ascertained whether the articles recovered from possession of the petitioner are heroin, ice and dancing pills etc or otherwise.

7. 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 bail granted

to him, but no satisfactory reparation can be offered to an innocent person for his unjustified incarceration at any stage of the case albeit his acquittal in the long run. Reliance is place on ***"Manzoor And 4 others Vs. The State" (PLD 1972 Supreme Court 81).***

8. The fact that petitioner has been in jail for more than five months and the trial is not likely to be concluded in near future would also tilt in favour of grant of bail rather than refusal. Even otherwise, the petitioner is a woman and the first proviso to subsection (i) of Section 497 Cr.P.C. envisages concession in the matter of bail for female accused irrespective of the gravity of the offences. Reliance is placed on ***"Mst. Raeesa Vs. The State" (1985 P.Cr.L.J. 2823), "Mst. Zebo Vs. The State" (1989 P.Cr.L.J. 594), "Mst. Naseem Akhtar Vs. The State"(2005 YLR 2870) and "Mst. Nasreen Bibi Vs. The State" (2006 YLR 2775).***

9. In view of what has been discussed above, we are of the opinion that the petitioner / accused has made out a case for grant of bail at this stage as the matter requires further inquiry. Accordingly, the instant petition is accepted and the petitioner / accused is admitted to bail subject to furnishing of bail bonds in the sum of Rs.500,000/- (Rupees Five Hundred Through only) with two sureties in the like amount to the satisfaction of learned trial Court.

10. Needless to observe that the observations made hereinabove are tentative in nature and the learned trial Court shall not be prejudiced by any such observation and shall decide the case on merits in view of the evidence available on record.

**(AAMER FAROOQ) (TARIQ MEHMOOD JAHANGIRI)**  
**JUDGE JUDGE**

*M.A.Baig.*