

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI
MR. JUSTICE JAMAL KHAN MANDOKHAIL

CRIMINAL PETITION NO. 789 OF 2023

(On appeal against the order dated 26.05.2023 passed
by the Peshawar High Court, Peshawar in CrI. MBA No.
1831-P/2023)

Muhammad Aslam

... Petitioner

Versus

The State

...Respondent(s)

For the Petitioner: Mr. Muhammad Tariq, ASC
Syed Rifaqat Hussain Shah, AOR

For the State: Raja Inaam Ameen Minhas, Special Prosecutor ANF
Ch. Ehtisham ul Haq, Special Prosecutor ANF
Mr. Hasan Feroz, Inspector

Date of Hearing: 23.08.2023

ORDER

SAYYED MAZAHAR ALI AKBAR NAQVI, J.- Through the instant petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 26.05.2023 passed by the learned Single Judge of the Peshawar High Court, Peshawar, with a prayer to grant post-arrest bail in case registered vide FIR No. 46/2023 dated 19.03.2023 under Sections 9(1) 3e, 6e, 9(2) 5-15 of Control of Narcotic Substances Act, 1997, in the interest of safe administration of criminal justice.

2. Briefly stated the allegation against the petitioner is that he was caught red-handed by the Police and charas weighing 104.400 kilograms, heroin weighing 05 kilograms and methamphetamine (ice) weighing 0.900 kilogram was recovered from the car in the front seat of which he was sitting and traveling.

3. At the very outset, it has been argued by learned counsel for the petitioner that the petitioner has been falsely roped in the present case against the actual facts and circumstances. Contends that no contraband whatsoever was recovered from the personal possession of the petitioner and he was not in conscious knowledge regarding the presence of the narcotics in the car. Lastly contends that the learned High Court has not properly evaluated the material available on the record, therefore, by declining bail to the petitioner, a grave miscarriage of justice has been done.

4. On the other hand, learned Law Officer contended that the petitioner is specifically nominated in the crime report and from his possession a huge quantity of narcotics has been recovered, therefore, he does not deserve any leniency from this Court.

5. We have heard learned counsel for the parties at some length and have perused the evidence available on the record.

6. As per the contents of the crime report, on receiving a spy information that a huge quantity of narcotics would be smuggled from Peshawar to Punjab via motorway, the Police party set a blockade and intercepted a car, which was being driven by co-accused of the petitioner while the petitioner was sitting in front seat of the car. From the secret cavities of the car, charas weighing 104.400 kilograms, heroin weighing 05 kilograms and methamphetamine (ice) weighing 0.900 kilogram was recovered. Samples were taken and sent to Forensic Science Laboratory in accordance with the prescribed criteria and the report of the FSL is positive. Nothing could be brought on record by the petitioner to suggest that the Police had any malice to falsely involve him in the present case. During the course of arguments, learned counsel contended that petitioner was merely sitting on the front seat of the car and the narcotics was not in his conscious knowledge. We have noted that the learned High Court has taken note of this argument and has rightly held that the *"petitioner and the driver of the vehicle both belong to the disciplined force that is Pak Army and at the relevant time both were posted at the same*

place, therefore, the impugned transaction being a joint venture cannot be overruled at the moment." The offence is heinous in nature as it contributes to the menace of drugs having grave repercussions on the society. *Prima facie* the material available on the record connects the petitioner with the commission of the crime. The offence falls within the prohibitory clause of Section 497 Cr.P.C. The impugned order is well reasoned, proceeds on correct principles of law on the subject and does not call for interference by this Court.

7. For what has been discussed above, we are not convinced that any case for grant of bail is made out. This petition having no merit is accordingly dismissed and leave to appeal is refused.

JUDGE

JUDGE

Islamabad, the
23rd of August, 2023
Approved For Reporting
Khurram