

**JUDGMENT SHEET**  
**IN THE PESHAWAR HIGH COURT,**  
**ABBOTTABAD BENCH.**

*(Judicial Department)*

**Cr. Misc:BA No. 57-B of 2017.**

**Chan Zeb**

**Vs**

**The state**

**JUDGMENT**

Date of hearing \_\_\_\_\_ 10.5.2017 \_\_\_\_\_.

Appellant-Petitioner \_\_\_\_\_

\_\_\_\_\_

Respondent \_\_\_\_\_

\_\_\_\_\_

**SYED MUAHMMAD ATTIQUE SHAH, J:-**

Accused/petitioner Chan Zaib involved in case FIR

No.05 dated 13.9.1999, registered under section 9 (C)

CNSA read with section 3/4 P.O at Police Station

ANF Haripur, was refused bail by the learned Judge

Special Court (CNS) Peshawar, vide order dated

21.12.2016. Hence the instant bail petition for his release on bail.

2. As per first information report 15 kilogram chars, 300 grams heroin, etc were recovered from the house of co-accused namely Liaq Khan and the present accused/petitioner was charged by the police on the statement of co-accused Liaq Khan.

3. I have heard arguments of learned counsel for the petitioner, A.A.G for the State and gone through the record with their valuable assistance.

4. Perusal of the record reveals that the only material available on the record of the case, which implicates the accused/petitioner in the present case, is the statement of co-accused namely Liaq Khan. Under Article 38 of Qanun-e-Shahadat Order, 1984, admission of an accused before the

police cannot be used as evidence against the other co-accused. The record of the case shows that nothing has been recovered from the direct possession of accused/petitioner and the house from where the alleged contraband was recovered belongs to co-accused Liaq Khan. No doubt, the accused/petitioner remained absconder for sufficient long time but mere abscondance would not disentitle him for grant of bail, if otherwise on merits the case of accused/petitioner is covered by subsection 2 of section 497 Cr.P.C. In this respect wisdom is drawn from judgment of apex Court reported in PLD 2012

Supreme Court 222.

*“It has vehemently been argued by the learned Additional Prosecutor-General, Punjab appearing for the State that the petitioner had remained a Proclaimed Offender for a period of about four years and, thus, he is not entitled to any indulgence in the matter of bail. We have, however, not felt persuaded to agree with the learned Additional Prosecutor-General in this regard. It has already been held by this Court in the cases of **Ibrahim v. Hayat Gul and others** (1985 SCMR 382) and **Muhammad Sadiq v.***

*Sadiq and others (PLD 1985 SC 182) that in a case calling for further inquiry into the guilt of an accused person bail is to be allowed to him as of right and such right cannot be refused to him merely on account of his alleged abscondance which is a factor relevant only to propriety."*

5. Investigation of this case has already been finalized, and challan has been completed, therefore, the accused/petitioner is no longer required to the prosecution for investigation at this stage and his continued incarceration is not likely to serve any beneficial purpose. For the above discussed reasons this Court reached to the conclusion that the case against the accused/petitioner calls for further inquiry into his guilt within the purview of subsection (2) of section 497 Cr.P.C.

6. In view of above, there is a wide scope of further inquiry into the guilt of accused/petitioner, resultantly he is admitted to bail on furnishing bail

bonds, amounting to Rs.1,00,000/-(One Lac) with two sureties each in the like amount to the satisfaction of Illaqa Judicial Magistrate/MOD concerned.

7. These are the detailed reasons of the short order of even date.

**Announced.**  
**10.5.2017.**

Aftab/\*

**J U D G E**