

BEFORE THE HONOURABLE PESHAWAR HIGH COURT, PESHAWAR

Cr. Misc Bail Application of 1574 2017



Ghulam Nabi S/O Janat Gul R/O Shah Nawaz Town Tehsil and
District Peshawar, (presently confined at Central Jail,
Peshawar).....(Accused/Petitioner)

VERSUS

The State.....(Respondent)

Criminal Case vide FIR No 561

Dated 31-05-2017

U/S 9 (C) CNSA

P.S Fagir Abad, Peshawar

Application under Section 497 Cr. P.C for the
release of Accused/Petitioner on post arrest
bail till the final disposal of captioned case

Respectfully Sheweth: -

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EXAMINER
Peshawar High Court
03 AUG 2017

The Accused/Petitioner humbly submits as under:-

- 1) That the Accused/Petitioner has been falsely implicated in the abovementioned case by the local police and presently Accused/Petitioner is behind the bars in judicial lock-up at Peshawar. (Copy of the FIR alongwith better copy is attached as Annex 'A & A/1').
- 2) That the Accused/Petitioner submitted an application for his release on bail to the Court of learned Sessions Judge,

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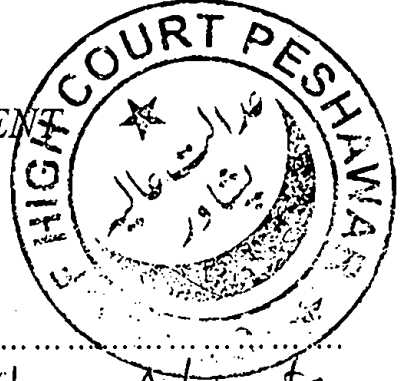
Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR.

JUDICIAL DEPARTMENT

Cr.M No.1574-P/2017

JUDGMENT



Date of hearing...01.08.2017.....

Petitioner....by Mr. Sarfraz Khan Advocate.

Respondent/StateRab Nawaz Khan A.A.C.

ABDUL SHAKOOR, J:- Ghulam Nabi, petitioner, seeks his release on bail in case FIR No.561 dated 31.05.2017 registered under Section 9 (c) CNSA, Police Station Faqir Abad, Peshawar.

2. Precise allegation against the petitioner, as contained in the FIR, is that on 31.05.2017 at 1930 hours complainant Asad Khan SI along with other police officials during the gusht were present at Bashir Abad, on spy information petitioner was apprehended, on his personal search one plastic bag of heroin was recovered from the fold of his shalwar; that on weighing the heroin, it was found 1100 grams, one gram from the recovered heroin was separated for chemical analysis and sealed into parcel No.1, while the remaining heroin 1099 grams was sealed into

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parcel No.2 and affixed 3/3 monogram of S.K, hence the aforesaid FIR was registered against the petitioner.

3. After hearing of the learned counsel for the petitioner, learned Assistant Advocate General for the State and perusing the material available on record, this Court has noticed that when petitioner was apprehended, 1100 grams heroin allegedly recovered from the plastic bag which was having in the fold of his shalwar. On the Court query the learned Assistant AG after going through the recovery memo available on the file of police record, could not show that the recovered heroin was weighed along with the plastic bag or otherwise. If the recovered heroin was weighed along with the plastic bag, prima facie the weight of the heroin without plastic bag, if weighed might have come to 1000 grams or less than that and in that eventuality, the case of the present petitioner would have fallen within the ambit of Section 9 (b) of CNSA 1997. Even otherwise it creates serious doubts in the mind of prudent person that how one can carry a plastic bag of more than one KG in the fold of his shalwar. In this background, the case of petitioner becomes one of further inquiry falling within the

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purview of Section 497 (2) of the Code of Criminal Procedure.

4. In view of the above discussions, this petition is allowed and the petitioner is admitted to bail subject to furnishing bail bonds in the sum of Rs.200000/- with two sureties each in the like amount to the satisfaction of Illaqa/Duty Magistrate. The sureties must be reliable and men of means.

Sd/- Abdul Ghafar Khan

Announced.
01.08.2017.



[Signature]
CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Qanun-e-Shahadat Order 1984
03 AUG 2017