

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Cr. Bail Application No:- 27707 /2017

Asad Khan S/o Wakeel Khan R/o Pindi
Larsama, Tehsil Marghuzar District Khyber
Agency, Now Central Jail, Peshawar. Accused/

..... Accused/Petitioner

Versus

The State.

.....Respondent

Case FIR No:- 22 Dated:- 19/09/2017

Charge U/s 9 (C) C.N.S.A

Police Station:- ANF, Manshera

APPLICATION FOR THE GRANT OF
POST ARREST BAIL TO THE
ACCUSED/PETITIONER TILL FINAL
DISPOSAL OF THE CASE.

Respectfully Sheweth:-

1. That accused/petitioner is innocent and has falsely charged and arrested by the ANF authorities. **(Copy of FIR is annexed).**
2. That the accused/petitioner applied for his release on bail in the court of learned Judge Special Court (CNS), Peshawar, which was turndown. **(Copy of application and order are attached).**
3. That aggrieved from the order, the accused/petitioner approached to this Honourable Court for his release on bail on the following grounds amongst other:-

ATTACHED

EXAMINER
Peshawar High Court

24 JAN 2018

44 DEC 23 1977

Judgment Sheet

**IN THE PESHAWAR HIGH COURT,
PESHAWAR**

(Judicial Department)

BA No. 2770-P/2016.

Asad Khan Vs The State.

JUDGMENT

Date of hearing. 04.01.2018

Petitioner by: Ms. Farhana Naz Marwat, Advocate

State by: Mr. Tariq Kakar, Special Prosecutor (ANF).

MOHAMMAD IBRAHIM KHAN, J.-.

This is an application of Asad Khan, the petitioner herein is looking for his post arrest bail in case FIR No.22 dated 19.09.2017 charged under section 9-C CNSA registered at Police Station ANF, Mansehra.

2. His earlier petition before the Court of learned Judge Special Court (CNS), KPK, Peshawar was dismissed vide a slipshod order on 20.11.2017. The reasons for dismissal are that there is huge quantity of contraband narcotics being recovered from the direct possession of the accused/petitioner. The data available on file prima facie connects him with the commission of

ATTESTED
Peshawar High Court
24 JAN 2018

offence falling within the prohibitory clause of Section 497 Cr.PC.

3. It was on 19.09.2017 the leading team of the officials of ANF with head Sub-Inspector Abid Usman of Police Station ANF, Mansehra were on their usual duty, checking the commuters, a hiace bearing No.LES/4263 white colour was passing which was halted. The officials of ANF were searching the passengers with their luggage, they found the petitioner Asad Khan holding a blue colour shopper in his right hand. He was alighted being suspected transporting the contraband, when opened the shopper there were two packets, each weighing 1000 grams wrapped in yellow solution tap out of which 10/10 grams were separated for chemical analysis.

4. Having heard arguments of learned counsel for the petitioner, learned Special Prosecutor on behalf of ANF and record with their assistance gone through.

5. Learned counsel for the petitioner placed reliance on the judgment of this Court in Bail Application No.449-P/2017 titled Iltaf Hussain Shah Vs The State. Conversely learned Special Prosecutor on behalf of ANF referred *2015 SCMR 1077 (Socha Gul Vs The State)* and

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2016 SCMR 1447 (Dolat Khan Vs The State and others)

and opposed the grant of bail.

6. There finds an order of the learned Judge Special Court (CNS), Peshawar dated 02.10.2017 whereby the co-accused Zeeshan was granted bail on the ground that there is scope of further inquiry into his guilt whether he is actual beneficiary of the narcotics and the transaction, he was infact nominated by this petitioner under statement under section 161 Cr.PC for the said accused/petitioner to be the owner of the contraband charas. This petition was taken for the grant of bail on account of the development in view of the statement recorded under section 161 Cr.PC to have named the co-accused Zeeshan to be the owner of contraband charas and he mere at the time of transportation was apprehended. Moreso, in the light of the referred judgment of this Court by the learned counsel for the petitioner, it is also to think over as to how it would be possible for the accused/petitioner to have transported two KGs charas in open condition where placing the same in a shopper which was opened and was sitting along with other passengers as the chars have an odor could easily be perceived with the nose of all the passengers and easily could be noticed by the driver and cleaner of the said

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 24 JAN 2018

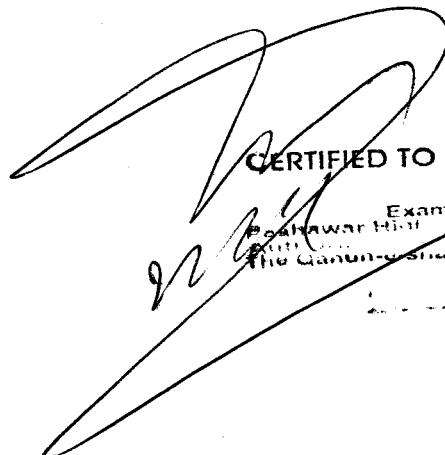
Hiace who have said nothing about such recovery. This is also a matter of further inquiry that seizing officer has not disclosed the mode and manner of weighment whether by a digital or local scale when the separation of 10/10 grams could be exactly weighed for its separation.

7. Under the recovery of 2000 grams charas normally where there is the scope of further inquiry bails are not declined, therefore, this bail petition is allowed and petitioner is asked to furnish bail bonds in the sum of Rs.2,00,000/- (two lacs) with two sureties each in the like amount to the satisfaction of Judicial Magistrate concern, who shall ensure that the sureties are local, reliable and men of means.

Announced:
04.01.2018


JUDGE

"Ihsan" (S.B.) Honourable Mr. Justice Mohammad Ibrahim Khan


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Examiner
Peshawar High Court, Peshawar
Article 87 of
The Qanun-e-Shanadat Order 1984
2018