

**JUDGMENT SHEET  
PESHAWAR HIGH COURT PESHAWAR  
JUDICIAL DEPARTMENT.**

Cx: M (BA) ..... No. 1373-P/ ..... of ..... 2015

**JUDGMENT**

Date of hearing: 18-09-2015

Appellant: (Mohsin Gul) by Farhana Marwat, Advocate

Respondent: (State) by Mr. M. Iqbal Mohmand, Standing Counsel for ANF

**MUHAMMAD DAUD KHAN, J.-** Petitioner, Mohsin

Gul son of Hassan Gul, seeks bail in case FIR No. 21 dated

25.6.2015 under Section 9(c) of the Control of Narcotic

Substances Act, 1997 registered at Police Station A.N.F.

Kohat. He has been refused bail by the learned Judge Special

Court (CNS), Peshawar vide his order dated 11.7.2015.

2. Allegation against petitioner is that on 25.6.2015,

the local police of P.S A.N.F. Kohat stopped truck

No.GLT/7353, which was driving by petitioner and search of

the truck led to the recovery of 4.800 kilograms of charas.

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**EXAMINER**  
Peshawar High Court  
01 OCT 2015

3. I have heard learned counsel for the petitioner as well as the learned Special Prosecutor for ANF/State and have gone through the record.

4. Perusal of the record would reveal that the contraband was recovered from the truck on the pointation of petitioner, which was being driven by him, hence, keeping in view the recovery of huge quantity of narcotics weighing 4.800 grams about which report of the FSL is also in the positive and the offence being non bailable and falls within the mischief of Section 51 of the CNSA read with 497(1), Cr.PC., the petitioner is not entitled to the concession of bail.

5. Recently, the august Supreme Court of Pakistan in the case of Socha Gul vs. The State (2015 SCMR 1077) has held that:

*"We have perused the case record and seen that the offence, for which the petitioner has been charged, falls under section 9 (c) of CNS Act of 1997, as the quantity of narcotic substance (charas) recovered from his possession is four kilograms. The samples of charas contained in four packets were separately taken, sealed on*

*m) Gul*

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*the spot, and report of Forensic Science Laboratory has been received in the positive. In such circumstances, at this stage no case for grant of bail is made out, merely for the reason that in the case of Jamal-ud-Din (supra) the honourable two member Bench of this Court has admitted the accused to bail with the observation that, while hearing a petition for grant of bail, the Court is not to keep in view the maximum sentence provided by the statute for the charged offence, but the one which is likely to be entailed.*

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*From the above reproduction, intent and scheme of the legislator is quite clear about the quantum of prescribed punishment under section 9 (c) (ibid), which could be either death or imprisonment for life or an imprisonment for a term which may extent to fourteen years, in addition to fine upto one million rupees. In our opinion, in such circumstances, neither categorization of sentencing nor any guess work or speculative exercise could be undertaken by the Court at bail stage to enlarge an accused on bail in such crimes, which will amount to pre-empting the mind of the trial Court, controlling its powers in the matter of sentencing an accused and determining the quantum of sentence upon his conviction”.*

6. In view of the above, this bail petition, having no

*Ed. Muhammad Daud u S*

merit, is dismissed.

**Announced.**

**18.9.2015**

**\*Nawab Shah\***

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**CERTIFIED TO BE TRUE COPY**

**01 OCT 2015**

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