

Judgment Sheet
IN THE PESHAWAR HIGH COURT,
PESHAWAR.

JUDICIAL DEPARTMENT.

JUDGMENT

Cr.MBA No.4283-P/2022.

Date of hearing 10. 01.2023.

Rahat Gul etc Vs The State.

Petitioner (s) by: **Mr. Alam Sher Khan**
 Afridi Advocate.

State by: **Mr. Muhammad Sohail**
 AAG.

MOHAMMAD IBRAHIM KHAN, J:-.

Through this bail petition, petitioners Rahat Gul and Niamat Ullah seek their release on bail in case FIR No. 1414 dated 15.11.2022 under Sections 9-D/ 11-B KP CNSA 2019/ 15 AA, registered at Police Station Rehman Baba, Peshawar. Earlier their bail petition was dismissed by the order of learned Addl: Sessions Judge/CPC, Peshawar on 26.11.2022.

2. As per contents of report, the local police after observing relevant

protocol, raided the baitak of petitioner Rahat Gul on spy information qua selling of narcotics; where petitioners alongwith co-accused Hidayat Ullah were busy in preparation of token/packing of heroin and Ice. On personal search a pistol .30 bore FF1603 alongwith two spare magazine and 22 live rounds of .30 bore were recovered from possession of petitioner Niamat Ullah. Further search of the baitak, led to the recovery of 28 token of heroin weighing 28 grams, heroin lying in shopping bag weighing 1127 grams, 11 sachet of Ice weighing 11 grams, Ice recovered from shopping bag weighing 175 grams alongwith small spoon, scissor, stapler, one digital scale and 11 plastic sachet as well as other packing material from the said baitak. The contraband alongwith above articles were taken into custody, the accused were arrested and a case vide FIR mentioned above was registered against them.

3. Arguments heard and available record gone through.

4. Admittedly, neither the Baitak from which the alleged contraband was recovered, is ownership of petitioner Niamat Ullah nor the alleged contraband except pistol .30 bore and rounds were recovered from his immediate possession; rather the said building was ownership of co petitioner Rahat Gul, which makes the case of petitioner Niamat Ullah that of further inquiry. Though a pistol .30 bore alongwith rounds were recovered from possession of petitioner, for which the offence would not bring his case for refusal of bail. Therefore, this bail petition to the extent of petitioner Niamat Ullah is allowed and he is admitted to bail subject to furnishing bail bonds in the sum of Rs.100,000/- (one lac) with two sureties each in the like amount to the satisfaction of learned Illaqa/ Duty Judicial Magistrate concerned; who shall ensure that

the sureties are local, reliable and men of means.

5. So far as case of petitioner Rahat Gul is concerned, the baitak in question was his ownership and huge quantity of narcotics has been recovered from the same in his presence as well as presence of marginal witnesses; who in their statements under Section 161 Cr.PC affirm the version of prosecution qua recovery of narcotics from his baitak. The report of FSL also affirms the version of prosecution, according to which the recovered contraband were heroin and methamphetamine. Learned counsel failed to point out any malafide or ill will on the part of prosecution to the extent of petitioner Rahat Gul, against whom, sufficient material has been collected by prosecution, which prima facie connects him with the commission of a heinous offence, falling under the prohibitory clause of Section 497 Cr.PC, therefore, this bail petition to the

extent of petitioner Rahat Gul is dismissed.

However, the prosecution is directed to submit complete challan against accused within a fortnight and thereafter, the learned trial Court is expected to conclude the trial expeditiously.

The ibid observations are the tentative assessment of the material available on the record of the case, which shall not influence the mind of the learned trial Court in any manner at the time of deciding the wheel of fortune of the accused in either his acquittal or conviction within the legal framework.

Announced.
10. 01.2023.




J U D G E