

JUDGMENT SHEET

PESHAWAR HIGH COURT, PESHAWAR JUDICIAL DEPARTMENT

Cr.M/BA No.136-P/2018

JUDGMENT

Date of hearing.....16.02.2018.....

Petitioner (Kirammat Ullah): By Arbab Kaleem Ullah,
Advocate.

Respondents/State: By Mian Arshad Jan, AAG.

QALANDAR ALI KHAN, J.- Kiramat Ullah, accused/petitioner, is seeking post arrest bail in case registered against him under Section 9 (c) CNSA in Police Station City Charsadda, vide FIR No.934 dated 20.10.2017 on the report of Wilayat Khan SHO, who along with police party was present on Sardaryab Check post and during *Nakabandi* stopped Motorcar No.HD-575/Islamabad, coming from Peshawar side and occupied on the driving seat by the accused/petitioner and on the front seat by co-accused Imran. The search of the motorcar, allegedly, led to the recovery of ten packets of chars, each weighing 1200/1200 grams, total weighing 12000 grams

concealed in secret cavities of Digi of the car. Out of each packet, 10/10 grams chars were separated as sample for chemical analysis in the FSL; and after the recovery, the accused/petitioner and the co-accused were arrested; and the aforementioned case was registered against them. After his failure to secure bail from the forum below, the accused/petitioner approached this Court for post arrest bail.

2 Arguments of learned counsel for the accused/petitioner and learned AAG heard; and record perused.

3. The mainstay of the arguments of learned counsel for the accused/petitioner was that the co-accused in the case, namely, Imran had been released on bail by this Court vide order dated 26.12.2017, therefore, the accused/petitioner facing similar charges in the same case would also be entitled to the concession of bail under the rule of consistency; but the learned counsel lost sight of the fact that the role ascribed to the co-accused Imran in the case was altogether different and distinguishable from that of the accused/petitioner, as the former was occupying front seat of the car therefore his knowledge about presence of narcotics in the car required further inquiry, but the accused/petitioner was on the driving seat and his knowledge about presence of narcotics in the car ought to be viewed differently.

4. Besides, there is a *prima facie* case of recovery of huge quantity of 12000 grams narcotics, which has been confirmed as chars in the report of FSL after chemical analysis of the samples received in the Laboratory within three days of the recovery on 23.10.2017.

5. In short, no case could be made out on behalf of the accused/petitioner for his release on post arrest bail; therefore, the application for post arrest bail is dismissed.

Announced
16-02-2018

J U D G E

Ayub

(S.B)

Hon'ble Mr. Justice Qalandar Ali Khan.