

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR.
(JUDICIAL DEPARTMENT)

Cr. M BA No. 3147-P/2021.

Date of hearing 24.09.2021.

M/s. Zohra Durrani & Qazafi durrani, advocates for the petitioner.

Mr. Inam Khan Yousfzai, Addl. AG for the State.

LAL JAN KHATTAK, J:- Petitioner Mosa Khan son of Tor Gul alias Noor Gul through the instant petition seeks his release on bail in case FIR No. 1533 dated 03.08.2021 under section 9D and 11C of the Khyber Pakhtunkhwa Narcotic Substances Act, 2019, registered against him at Police Station, *Pishtakhara*, Peshawar, wherein he is charged for trafficking 10,000 grams heroin and 6000 grams amphetamine and possessing 20 gram heroin and 10 gram Ice.

2. Arguments heard and available record gone through.

3. True that huge quantity of narcotic has been recovered from secret cavity made in *diggi* of the motorcar which was in full control and possession of co-accused Muhammad Rafiq but noticeable aspect of the case is that the petitioner was found sitting on front seat of the vehicle at the time of recovery. There is nothing on the case file to show that either the petitioner was privy to the bid of smuggling or was having any slightest conscious knowledge about presence of the

recovered contraband in the car so as to show his nexus with the foiled attempt of the smuggling. Thus his participation in the crime needs further consideration. No doubt 20 gram heroin and 10 gram ice has been recovered from direct possession of the petitioner but ibid meager quantity of contraband would not be made a base to dub him as co-smuggler of the narcotic which is subject matter of the instant case.

4. Tentative assessment of the available record shows that the petitioner has made out a case for the purpose of his release on bail, therefore, this petition is allowed and it is directed that he be released on bail provided he furnishes bail bonds in the sum of Rs. 1,00,000/- with two sureties each in the like amount to the satisfaction of Illaqa Magistrate, who shall ensure that the sureties are local, reliable and men of means.

JUDGE

Announced
24.09.2021.