

**JUDGMENT SHEET**

**IN THE PESHAWAR HIGH COURT,  
MINGORA BENCH (DAR-UL-QAZA), SWAT  
(Judicial Department)**

***Cr.M.BA. No. 105-M/2018***

***Akhtar Munir V/S The State***

**&**

***Cr.M B.A. No. 106-M/2018***

***Ali Mahir V/S The State***

**CONSOLIDATED**

**JUDGMENT**

Date of hearing: **13.03.2018**

**Petitioner:- (Akhtar Munir) by Farhana Naz  
Marwat, Advocate.**

**Respondent:- (The State) by Mr. Rafiq Ahmad,  
Asth: Advocate General**

**MOHAMMAD IBRAHIM KHAN, J.-** These are

two separately filed bail petitions, Cr.M B.A.

No.105-M of 2018 is preferred by Akhtar Munir

and Cr.M B.A. No. 106-M of 2018 by Ali

Mahir. Both these Petitioners are off springs of

Aziz-ur-Rahman and are implicated in case FIR

No. 91 dated 29.01.2018 charged under section

9 (c) CNSA registered at Police Station

Mingora Swat.

2. Earlier, these Petitioners filed their separate bail applications for the similar relief (post arrest bail) before the Court of learned Additional Sessions Judge-VI/Izafi Zila Qazi Swat, which were dismissed on 09.02.2018 and 20.02.2018 respectively.

3. Both these bail applications pertain to the same case registered against them by the local police of Police Station Mingora Swat vide FIR *ibid*, therefore are disposed of through this singled-out judgment.

4. During the course of recovery of huge quantity of Chars weighing 5,255 grams from the possession of accused/Petitioner Ali Mahir, who had secretly placed the same in the motorcar bearing No. Ai-5173 and was roaming to find customers for the purpose of selling. He was chased and apprehended at a place known as Haji Baba near old Kokarai 'Adda' while he was sitting on the driver seat. During search of the motorcar beneath the driver seat out of secret cavities the police recovered 5 packets of

Chars which were wrapped up with yellow colour plastic (پلاسٹک). The accused at that time was having Rs. 25,000/- as sale proceed. Out of each packet 5/5 grams were separated for chemical analysis while rest of the Chars were sealed into separate parcels. The accused Mahir Ali during the course of investigation disclosed that his brother Akhtar Munir is also co-owner of the Chars and the motorcar belong to him, thereby, the said Akhtar Munir was also arrayed as an accused in this case.

5. Having heard arguments of learned counsel appearing on behalf of both of the Petitioners and learned Astt: Advocate General for the State, record with their valuable assistance gone through.

6. Learned counsel for the Petitioners referred to 2013 SCMR 669 "Raja Muhammad Younas V/S The State", 2001 SCMR 14 "The State through Deputy Director Anti-Narcotic Force Karachi V/S Syed Abdul Qayum", 2017 P Cr.LJ Note 50 (Lahore

Rawalpindi Branch) " Muhammad Waqas V/S  
The State through SHO PS Dhudial  
Chakwal", unreported judgment of this Court  
rendered in Cr. M B.A. No. 44-P of 2017 titled  
as " Niamat Khan V/S The State decided on  
03.02.2017 by His Lordship Mr. Justice Rooh-  
ul-Amin Khan at Hon'ble Principal seat of  
Peshawar High Court Peshawar, unreported  
judgment of this Court in Cr.M B.A. No.  
2342-P/2017 decided on 13.11.2017 by His  
Lordship Mr. Justice Muhammad Ghazanfar  
Khan and unreported judgment of this Court  
delivered in Cr.M B.A. No. 42-P of 2017 on  
30.01.2017 by His Lordship Mr. Justice  
Ikramullah Khan. In the light of these dictums

of the Hon'ble superior Courts prayed for the  
 grant of bail in favour of each of the Petitioner.

Inversely, learned Asstt: Advocate General  
 appearing on behalf of the State vehemently  
 opposed the grant of bail in favour of the  
 Petitioners in view of their previous  
 involvement in offences of similar nature and

being squarely fall within the category of habitual offenders.

7. Both these Petitioners have been assigned different roles. Amongst them, Ali Mahir was apprehended while sitting on the driver seat and beneath in the secret cavities 5 packets of Chars were wrapped in plastic yellow color (پٹی), which on weighment came to 5,255 grams. This is not for the first time that he is involved in this business of sale of narcotics. There are several other cases registered against him. These include case FIR No. 433 under section 9 (c) CNSA pertaining to recovery of 1025 grams registered at PS Matta Swat, case FIR No. 654 dated 18.7.2017 under section 9 (c) CNSA registered at PS Mingora Swat of recovery of 2081 grams and case FIR No. 101 dated 20.3.2012 under section 3/4 PHO registered at Police Station Abanr, wherein he has been convicted for fine of Rs. 500/-. Therefore, the Petitioner Mahir Ali is a habitual offender in the business of selling Chars. The report of the Forensic Science Laboratory would

further confirm of the recovery of Chars with its physical appearance of brown solid. Hence on account of his previous history and having misused the concession of bail in other cases, this time, he being apprehended with huge quantity of narcotics. He is not at all entitled to the concession of bail, so, the bail application on his behalf stands dismissed.

8. Whereas the role of Petitioner Akhtar Munir is on different lines, he has been nominated by his brother Ali Mahir in the statement before the police but he was not apprehended on the spot. May be he has been named as the motorcar from which the recovery has been effected is his ownership. Although there are other cases registered against him yet there is no record of his conviction in all those cases. His case falls within the scope of further inquiry. Thereby he is entitled to the concession of bail. Hence he is asked to furnish bail bonds in the sum of Rs. 200,000/- (Rupees two lacs) with two sureties each in the like amount to the satisfaction of learned Trial Court, who shall

ensure that the sureties are local, reliable and men of means.

9. These are the reasons of my short order of even date.

Announced  
Dt: 13.03.2018.

  
**JUDGE**

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w/R