

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT JUDICIAL DEPARTMENT.

Cr Misc (BA).....No.....1313-P.....of.....2017


J U D G M E N T

Date of hearing: 26th July, 2017

Petitioner(s): (Sabir Khan) by Ms. Farhana Marwat, Adv:

Respondent(s): (State) by Mr. Tariq Kakar, Advocate.

MUHAMMAD AYUB KHAN, J.- Sabir Khan,



petitioner herein, who is charged in a case registered against him and another under Section 9(c) of the Control of Narcotic Substances Act, 1997, vide FIR No.15, dated 25.03.2015 in Police Station ANF (Peshawar) has sought his release on bail only on statutory ground as he is languishing behind the bars since 25.03.2015 and his trial should have been concluded up-till now but hasn't been done so, therefore, he is entitled to be released on bail on this score alone, notwithstanding, merits of the case.

2. As against that the learned counsel appearing on behalf of the State vehemently argued that in view of the recovery of contraband and the nature of the case, the petitioner does not deserve to be released on bail, that too, when the trial is in progress and would be concluded in near

future, therefore, a chance be given for the conclusion of the same.

3. I have gone through the entire record carefully and considered the submissions made by the learned counsel for the parties.

4. Since except examination of one PW on 27.10.2016, no other progress has been made in the case till yet and the same is being adjourned since 09.05.2015 on the part of prosecution by not examining the available prosecution witnesses rather opted to examine all the witnesses in one go, which, otherwise, cannot be possible as is evident that except one, no other witness could be examined due to such like pretexts and as per available record, twenty-one times, the case was adjourned due to aforesaid reason while only for two times the same was adjourned due to absence of the defence counsel and the fact that the petitioner is languishing behind the bars since 25.03.2015 would further tilt the scales of justice in favour of bail rather than jail, therefore, I, at this stage, does not see any strong reason to withhold the concession of bail, that too, when the delay in conclusion of the trial, apparently, is not on his part. Needless to remark that mere heinousness of crime will not disentitle an accused to the concession of bail, when ultimate conviction, if any, can repair the wrong caused by the mistaken relief of bail. Reliance can

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well be placed on the judgments of the apex Court rendered in the cases of Imtiaz Ahamd vs. State (2017 SCMR 1194); Adnan Prince vs. State (PLD 2017 SC 147).

5. For the reasons discussed above, this petition is allowed and the petitioner is directed to be released on bail on furnishing bail bonds in the sum of Rs.5,00,000/- (Rupees five lac) with two sureties, each in the like amount to the satisfaction of the learned Trial Court, who is to ensure that the sureties are local, reliable and men of means having sufficient properties in their names to meet the liability of bail bonds. The learned Trial Court is directed to take coercive measures against PWs and to conclude the trial within three months of this order. The learned Trial Court shall furnish fortnightly progress report to the Incharge NJPIC of Peshawar High Court so that it could be placed before Hon'ble The Chief Justice for his lordship's perusal.

Announced.

26. 07. 2017


J U D G E

(Fayaz)