

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Manzoor Ahmad Malik  
Mr. Justice Qazi Muhammad Amin Ahmed  
Mr. Justice Amin-ud-Din Khan

**Criminal Petition No.1121/2017**

(Against judgment dated 21.9.2017 of the Lahore High Court, Multan Bench passed in Cr. A. No.482/2014)

***Muhammad Boota***

...*Petitioner(s)*

**Versus**

***The State and another***

...*Respondent(s)*

For the Petitioner(s): Mr. Shahid Azeem, ASC

For the State: Mirza Abid Majeed, Deputy Prosecutor  
General Punjab

Date of hearing: 2.12.2019

**ORDER**

**Qazi Muhammad Amin Ahmed, J.-** Muhammad Boota, petitioner herein, was tried alongside Rashid Ali, acquitted co-accused, by a learned Addl. Sessions Judge at Multan; surprised by a police contingent, they were intercepted while transporting 15 sacks of *Bhang*, weighing 5 mound, on 11.6.2013 within the precincts of Police Station Baha-ud-Din Zakariya Multan; convicted under section 9 (c) of the Control of Narcotic Substances Act, 1997, both were sentenced to imprisonment for life alongwith fine of Rs.25,000/- or to undergo simple imprisonment for one year in default thereof. A learned Division Bench of Lahore High Court at Multan acquitted Rashid Ali convict from the charge while maintaining petitioner's conviction and sentence vide impugned judgment dated 21.9.2017, *vires* whereof are being assailed on a variety of grounds, absence of analysis protocol in the forensic report being most prominent.

2. It has since been authoritatively settled by this Court in the case reported as *The State through Regional Director ANF Vs. Imam Bakhsh* (2018 SCMR 2039) that confirmatory forensic conclusions to establish narcotic character of a substance must be supported by protocol/procedure mandated by Rule 6 of the Control of Narcotic Substances (Government Analysts) Rules 2001 and non-compliance of Rule *ibid* would render the report of the Government Analyst

inconclusive, suspicious and untrustworthy and will not meet the evidentiary assumption attached to a report of the Government Analyst. Confronted with the shortcoming of the anomalous report, the learned Law Officer, nonetheless, still defended the impugned judgment, however, without mark. Prosecution has failed to prove its case against the petitioner to the hilt and it would be unsafe to maintain the conviction. Criminal petition is converted into appeal and allowed, impugned judgment is set aside, the petitioner/appellant shall be released forthwith, if not required in any other case.

**Judge**

**Judge**

**Judge**

Islamabad

2<sup>nd</sup> December, 2019

Not approved for reporting

Azmat\*