

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmed Malik
Mr. Justice Sajjad Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.1004 of 2019

(Against judgment dated 08.08.2019 passed by Islamabad
High Court Islamabad in Cr. Misc. No.289-B of 2019)

Anti Narcotics Force through its Regional Director

...Petitioner(s)

Versus

Syed Paris Ali

...Respondent(s)

For the Petitioner(s): Ch. Ihtesham-ul-Haq,
Special Prosecutor, ANF

For the Respondent(s): N.R.

Date of hearing: 17.10.2019.

JUDGMENT

Qazi Muhammad Amin Ahmed, J. Syed Paris Ali, respondent herein, was surprised by a contingent of Anti Narcotics Force on 4.12.2018; he was found in possession of *charas*, weighing 3600 grams; his attempts for bail failed throughout, including this Court. Undeterred by his earlier failures, the respondent chartered the course once again on medical grounds. The plea found favour with the Islamabad High Court and the respondent was admitted to post arrest bail *vide* impugned order dated 8.8.2019, *vires* whereof are being assailed with the plea that there was no occasion for the High Court to grant bail to the respondent in the absence of a valid fresh ground as according to the learned counsel, nothing substantial changed ever since dismissal of respondent's plea in this Court including his health condition. It has been pointed out that the disease alleged by the respondent and relied upon by the High Court carried no serious threat and was treatable within the jail.

2. The impugned order is structured upon a report, reproduced below:-

"The said accused has history of fire arm injury (FAI) and had explanatory laparotomy in June, 2018 by GSU-1 (General Surgery Unit-1). He had multiple gut perforations for which primary repair was done

in 2018. Now, the accused is complaining of painful defecation, constipation and on & off bleeding per rectum. On per anal examination, well healed midline scar, no swelling and no mass palpable. On digital rectal examination anal fissure at 6 O' clock with skin tag. The diagnosis as per Dr. Sajid Ali Shah, Assistant Professor, Department of General Surgery, Pakistan Institute of Medical Sciences, Islamabad is of anal assure; the accused was advised medicines and given instructions as below:

<i>Tab Novidat 500 mg</i>	<i>Twice daily x 5 days</i>
<i>Tab Flagyl 500 mg</i>	<i>Thrice daily x 5 days</i>
<i>Tab Zantac 150 mg</i>	<i>Twice daily x 2 weeks</i>
<i>Pyodine sitz bath</i>	<i>as instructed</i>
<i>Cream. GTN 0.2 %</i>	<i>Twice daily</i>
<i>Isphaghula Husk</i>	<i>Two Ten Spoons Full at sleeping hour</i>
<i>Syp. Duphalac</i>	<i>30 ml at sleeping hour</i>

The accused was instructed to take plenty of water, take extra fruits and vegetables and to avoid spicy foods with follow-up in surgical OPD after two months."

The above report, apparently, does not suggest any serious health disorder beyond hemorrhoids nor it appears to require any treatment possibly not available in jail hospital. It does not suggest any special procedure for the respondent as well. Not every ailment entitles an accused to be released on bail unless such a malady is found life threatening or without possible cure in the prison. Consideration that weighed with the High Court does not commend for approval particularly after respondent's failure in this Court, however, since the trial has commenced, likely to be concluded soon and concession has not been abused, we do not consider it expedient to recall the bail as the provisions of sub section 5 of section 497 of the Code of Criminal Procedure, 1898 are not punitive in nature. Petition fails. Dismissed.

Judge

Judge

Judge

Islamabad
17th October, 2019
Azmat/-