

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa
Mr. Justice Yahya Afridi
Mr. Justice Jamal Khan Mandokhail

Criminal Petition No. 1308 of 2022

*(Against the order dated 19.09.2022 of the
Lahore High Court, Multan Bench passed in
Crl.Misc. No. 5220-B/2022)*

<i>Gull Din.</i>	<u>Versus</u>	<i>... Petitioner</i>
<i>The State through P.G., Punjab and another.</i>		<i>... Respondents</i>

For the Petitioner:	Malik M. Usman Bhatti, ASC.
For the State:	Ch. Muhammad Sarwar Sidhu, Addl. Prosecutor-General, Punjab. a/w Farhat Rasool, DSP City, Muzaffargarh. Khalid Azizi, SI/IO.
Respondent No. 2:	Muhammad Yaqoob, ASI.
Date of Hearing:	17.11.2022.

ORDER

Qazi Faez Isa, J. Notice was issued to consider whether the petitioner was entitled to bail due to the fact that rule 4(2) of the Control of Narcotic Substances (Government Analysts) Rules, 2001 ('**the Rules**'), which provides that the seized narcotics be dispatched for analysis '*not later than seventy-two hours of the seizure*', was not complied with, as the same was sent after seventeen days.

2. This Court in a number of judgments has held that the said rule is directory, including in the cases of *Tariq Mehmood v State* (PLD 2009 Supreme Court 39), *Gul Alam v State* (2011 SCMR 624) and *Muhammad Sarfraz v State* (2017 SCMR 1874). And, a five-member Bench of this Court, in the case of *Tallat Ishaq v National Accountability Bureau* (PLD 2019 Supreme Court 112) held that the non-compliance of a directory rule would not entitle the petitioner to bail. Though the *Tallat Ishaq* was a case under the National Accountability Bureau Ordinance, 1999, in our opinion, the

stated principle enunciated therein would be equally applicable to cases under the narcotic laws when directory provisions are not complied with. Accordingly, the ground of non-compliance with rule 4(2) of the Rules will not on its own be a sufficient ground to entitle the petitioner to the concession of bail.

3. The learned counsel for the petitioner states that after framing of charge no progress has been made in the trial and the case is not proceeding because the prosecution side is delaying it. The learned Additional Prosecutor-General, Punjab (**'APG'**) states that as far as the prosecution is concerned it will expeditiously proceed with the case and will not seek any unnecessary adjournment. The learned counsel for the petitioner states that if the prosecution side abides by the commitment made by the learned APG he will be satisfied and this petition may be disposed of in such terms.

4. The prosecution shall abide by the aforesaid commitment made by the APG and the learned Trial Judge will not entertain any unnecessary requests for adjournment from the prosecution side. With such observations this petition is disposed of.

Judge

Judge

Judge

Islamabad:
17.11.2022
(M. Tauseef)

Approved for Reporting