

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sardar Tariq Masood

Mr. Justice Qazi Muhammad Amin Ahmed

Jail Petition No.83 of 2021

(Against the judgment 01.02.2021 passed by the Lahore High Court Rawalpindi Bench in Crl. A. No.58/2020)

Raja Ehtisham Kiyani

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Syed Hamid Ali Shah Bokhari, ASC

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

Date of Hearing: 04.03.2022.

ORDER

Qazi Muhammad Amin Ahmed, J.:- Surprised by a police contingent within the precincts of Police Station Gujjar Khan, headed by Shabbir Hussain, SI (PW-3), the petitioner was found in possession of 1500 grams of heroin at 1:30 p.m. on 21.04.2019. Upon search, a cell phone handset alongwith some cash were also secured vide inventory. 75 grams sample forensically confirmed the contraband character of the contraband.

Upon indictment, the petitioner claimed trial that resulted into his conviction under section 9(c) of the Control of Narcotic Substances Act, 1997; he was sentenced to 6-years RI with a direction to pay fine, pre-trial period inclusive, vide judgment dated 29.01.2020, upheld by the High Court vide impugned judgment dated 01.02.2021, being assailed on a variety of grounds, bias of Shabbir Hussain SI (PW-3), clamored most emphatically.

2. It is argued that Shabbir Hussain SI who allegedly headed the police contingent comprising of three constables carried out the entire exercise, right from inception to deposit of samples to the Punjab Forensic Science Agency himself, which in retrospect, lends credence to the defence plea that in the backdrop of an earlier animosity he cooked up a false case and was personally interested in its success. It is next argued that investigation of the case by the complainant himself, particularly in the face of his alleged

misconduct must be viewed with caution. The learned Law Officer, contrarily, defended the impugned judgment on the grounds that the petitioner was intercepted with a considerable cache of a narcotic substance, most lethal in nature, forensically so confirmed through an uninterrupted chain of various investigative steps, ranging from seizure, safe custody to transmission thereof. It is next argued that the witnesses are in a comfortable unison on all the salient details of the recovery as well as matters collateral thereto, leaving no space to entertain any hypothesis other than petitioner's guilt.

3. Heard. Record perused.

4. We are not intrigued by Investigation Officer's conduct on his having swiftly concluded various investigative steps/requirements, himself to bring the prosecution to its logical end; attestation of inventories by other members of the contingent confirmed their presence in the episode, otherwise an official business protected by statutory presumption of being in order/genuine; on the contrary, efficient promptitude deserves acclaim.

Insofar as allegation of previous animosity on account of alleged demand of bribe by one of the members of the police party, against whom, the petitioner claims to have moved some application is concerned, nothing is on the record to even obliquely suggest an ongoing previous rancor, prompting the police to impose a false recovery of a substance with a price tag rather huge in terms; the plea surfaced, surprisingly late in the day without any attempt to the departmental recourse and, thus, at best can be viewed as an afterthought and at worst a ploy to subvert the prosecution. Even during the trial, the petitioner did not pick courage to enter the witness box in disproof of charge or to drive home his plea with a view to discharge adverse statutory presumption provided in section 29 of the Act *ibid*.

On our independent analysis of the record, we have not been able to take a view than the one concurrently taken by the Courts below. Petition fails. Leave declined.

Judge

Judge

Islamabad, the
4th March, 2022
Azmat/-