

IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

Cr.Misc.BA No.188-P/2018

Aurangzeb s/o Nisar khan,
r/o Supply Road, Mohallah Gharib Abad No.2,
Peshawar present confined at Central Jail,
Peshawar.

Petitioner

VERSUS

The State

Respondent

For Petitioner :-	<u>Ms. Farhana Naz Marwat and Malik Nasrum</u> <u>Minallah, Advocate.</u>
State :-	<u>Mr. Tariq Khan Kakar, Advocte..</u>
Date of hearing:	<u>05.03.2018</u>

ORDER

ROOH-UL-AMIN KHAN, J:- Through this single order, I, propose to decide the instant bail application and connected Cr.Misc.BA No.191-P/2018, filed by petitioners Aurangzeb and Malook, respectively, for their release on bail in case FIR No.95 dated 28.11.2017, registered under section 9 (c) Control of Narcotic Substances Act, 1997 (the Act of 1997), in Police Station Anti Narcotics Force (ANF), Peshawar.

2. The prosecution case as set forth in the FIR is that on receipt of spy information qua trafficking of huge quantity of Ecstasy Tablets by an afghan national, namely, Malook through a motorcar bearing registration No.ICT.510, Mehmood ul Hassan SHO alongwith other

ANF officials, on 28.11.2017 conducted a barricade in front of General Hospital Ring Road, Peshawar, and at 1600 hours, intercepted the said vehicle. On query, its driver disclosed his name as Malook, who on cursory interrogation pointed out availability of two packets containing Ecstasy tablets in the secret cavities made in the doors of the motorcar. Accordingly, the same were recovered, on weighing each packet was found 500 grams. On further interrogation, he disclosed the recovered tablets to have been purchased from one Aurangzeb resident of Gharib Abad Peshawar. House of the latter was immediately raided and he was busted in front of his house and on his pointation/discovery, 32 packets, containing Ecstasy tablets in different from and colours, total weighing 17600 grams, were recovered from beneath a bed lying in the residential room of his house, hence, this case.

3. Arguments of learned counsel for the parties heard and record perused with their able assistance.

4. The main thrust of the arguments of learned counsel for the petitioners was that, on one hand, the Forensic Science Laboratory (FSL) having been not equipped with the skill and equipments, by no stretch of imagination was competent to examine the tablets and give any opinion, while on the other hand, has not specifically mentioned the percentage of contents i.e. Methamphetamine, Benzodiazepine, Phencyclidine and

Morphine in each tablet which was the mandatory requirement of the Rules framed under the Control of Narcotic Substances Act, 1997, hence, on this ground, the case of the petitioners requires further probe and are entitled to the concession of bail.

5. Any discussion on the competency of the FSL to examine the samples of the recovered tablets and authenticity or otherwise of its report in light of the rules framed under the Control of Narcotic Substances Act, 1997, would amount to deeper appreciation, falling in the domain of the trial Court, has been deprecated by the Hon'ble superior Courts at bail stage. On tentative assessment of the material on record, this court observed that first on pointation of petitioner Malook Ecstasy tablets were recovered from secret cavities of the motorcar being driven by him, and then on his disclosure petitioner Aurangzeb was arrested. Search of his house led to discovery and recovery of a huge quantity of Ecstasy tablets was recovered. Samples from the recovered tablets, had been sent to the FSL, and as per report thereof, the samples tablets were containing Methamphetamine Benzodiazepine, Phencyclidine and Morphine, which ingredients fall within the definition of controlled substance and psychotropic substance. As per search of this Court, Methamphetamine is an illegal drug in the same class as cocaine and other powerful street drugs. It has

many nicknames i.e. meth, crank, chalk or speed being the most common. Crystal meth is used by individuals of all ages, but is most commonly used as a “club drug”, taken while partying in night clubs or at rave parties. Its most common street names are “Ice” or “glass”. It is a dangerous and potent chemical and, as with all drugs, a poison that first acts as a stimulant but then begins to systematically destroy the body. Phencyclidine also known as angle dust among other names, is a drug used for mind alerting effects. It may result in images that seem real though are not, distorted sounds, and violent behavior. As a recreational drug, it is typically smoked, but may be taken by mouth, snorted, or injected. As per analysis its adverse effects may include seizures, coma, addiction and an increased risk of suicide. Similarly, morphine is the most abundant analgesic opiate found in opium and is a potent pain reliever. The Drug is used in clinical pain relief but is also used illicitly for recreational among drug users. It is potentially highly addictive and can cause intense physical dependence that leads to abuse of the substance. Witnesses to the recovery proceedings, in their statements under section 161 Cr.P.C., who on the face of record, has no ill will or enmity with the petitioners, fully support the stance of the seizing Officer.

6. For the foregoing reasons, the petitioners are prima facie connected with the commission of offence

punishment of which falls within the Prohibitory clause of section 51 CNS, Act, 1997, hence, I am not inclined to exercise the discretion of bail in their favour. Accordingly, both the petitions are hereby dismissed.

7. Needless to mention that observations of this Court in the instant order are tentative in nature which shall not prejudice/influenced the mind of the trial Court and the fate of the case shall be decided on the basis of the available evidence and material on record.

Announced:

05.03.2018

M.Siraj Afridi P.S.

JUDGE

SB of Mr. Justice Rooh-ul-Amin Khan.