

*Judgment Sheet*

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR**

*(Judicial Department)*

**Cr.MBA No. 1615-P/2018.**

**Mst. Haseena**

**Vs**

**The State.**

**JUDGMENT**

**Date of hearing. 20.08.2018**

**Petitioner(s) by: Mr. Sawar Khan-Adv.**

**State by: Mr. Waqas Ahmad Khan Chomkani-Adv**

**MUHAMMAD NASIR MAHFOOZ, J:-** Through the instant petition, petitioner Mst. Haseena seeks her release on bail in case FIR No.48 dated 06/07/2018 under Section 9-C CNSA, Police Station RD/ANF, Peshawar.

2. According to prosecution case, during Nakabandi, the ANF officials deboarded the petitioner from a passenger Hiace bearing registration No.LES-3232 through lady constable Rafida Bibi, who was having a minor girl in her lap. On search, five packets of heroin, out of which two were weighing 1100 grams each, two were

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500 grams each and one was weighing 130 grams (total 3.330Kg ) were recovered by lady constable from the immediate possession of petitioner, which she had tied with her body. Consequently the contraband were taken into custody, petitioner was arrested and a case vide FIR mentioned above was registered against her.

3. I have heard learned counsel for the petitioner, learned Special Prosecutor for ANF and gone through the record.

4. Perusal of record reveals that at the time of arrest of petitioner, she was also having a suckling baby of 8 months in her lap, who is still with her inside the jail. Though considerable quantity of heroin has been recovered from the possession of petitioner but she is also having a suckling baby who is still kept in jail with her mother for no sin. She is kept in jail with her mother for her welfare. The concept of welfare of minor is incompatible with jail life, so instead of detaining the innocent baby infant in the jail for the crime allegedly committed by her mother, it would be in the interest of justice as well as welfare of minor if her mother (petitioner) is released on bail. Wisdom can be derived



from the famous case of *Ghamidiyya*, wherein the **Holy Prophet Muhammad (Peace Be Upon Him)** had suspended the sentence of a pregnant woman, not only till delivery of her child but also till suckling period i.e, two years, obviously for the welfare of her child, which shows paramount importance and significance of the right of a suckling baby in Islam and the unprecedented care taken of, and the protection given to a child or expected to be born, by our Holy Prophet Muhammad (Peace Be Upon Him). Hence while following the golden principle of administration of justice enunciated by the Holy Prophet Muhammad (PBUH), this Court without touching the merits of the case, accept the instant bail petition and admit the petitioner to bail provided she furnishes bail in the sum of Rs.50,000/- (Fifty thousand) with two sureties each in the like amount to the satisfaction of learned Illaqa/Duty Judicial Magistrate concerned.

***Announced:***  
***20.08.2018.***

  
**JUDGE**