

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

Cr.Misc.BA No.3315-P/2021

Ahmad Khan son of Tanveer Ahmad,
r/o Togh Bala Kohat.

Petitioner (s)

VERSUS

The State

Respondent (s)

For Petitioner (s) :-
For State :-
Date of hearing:

Mr. Hassan Zaib Rahim, Advocate.
Mr. Arshad Ahmad, AAG.
08.10.2021

ORDER

ROOH-UL-AMIN KHAN, J:- Petitioner Ahmad Khan, whose earlier request for post arrest bail on merit has been turned down by this Court vide order dated 30.08.2021, in case FIR No.789 dated 11.07.2021, under section 9 (d) and 11 (b) KP Control of Narcotic Substances Act, 2019, Police Station MRS Kohat, through the instant application seeks the relief of post arrest bail on fresh ground of juvenility.

3. Arguments of learned counsel for the parties heard and record perused.

4. It appears from record that petitioner is charged in the instant case for recovery of 3300 grams chars and 180 grams heroin. Initially, he applied for his post arrest bail on merit before the learned ASJ-I Kohat, but his request was turned down vide order dated 24.07.2021. Petitioner then approached this court by filing Cr.Misc.BA No.2590-P/2021, seeking their in the relief of bail on merit, but it met the same fate vide order dated

30.08.2021. In both the aforesaid bail applications, the petitioner has not agitated a single ground qua his juvenility. With the instant application, he has annexed Birth Registration Certificate, issued by NADRA wherein his date of birth is shown as 16.03.2003. The occurrence has taken place on 11.07.2021. If the date of birth of the petitioner as mentioned in the certificate (ibid) is taken into consideration, his age come to 17 years 11 months and 25 days on the day of occurrence i.e. five days less than 18 years. As stated earlier, petitioner is charged for recovery of 3300 grams chars and 180 grams heroin, which entails capital punishment (death), imprisonment for life or imprisonment for a term which may extent to fourteen years and with fine which may extend upto rupees one million and not less than five lacs, if the quantity of narcotics substance exceeds the limits of one Kilogram.

5. Section 6 (4) of the Juvenile Justice Act, 2018, (**Act of 2018**) provides that where a juvenile of more than sixteen years of age is arrested or detained for a **heinous offence**, he may not be released on bail if the Juvenile Court is of the opinion that there are reasonable grounds to believe that such juvenile is involved in commission of a heinous offence. Under section 2(g) of the Act of 2018, “**heinous offence**” means an offence which is serious, gruesome, brutal, sensational in character or shocking to public morality and which is punishable under the Pakistan Penal Code, 1860 (Act XIV of 1860) or any other law for the time

being in force *with death or imprisonment for life or imprisonment for more than seven years* with or without fine.

6. For what has been discussed above, even if the alleged juvenility of the petitioner is taken into consideration, he is not entitled to the concession of bail under the provisions of the Juvenile Justice System Act, 2018, governing the grant of bail to a Juvenile.

7. Accordingly, this petition stands dismissed.

Announced:

08.10.2021

M.Siraj Afridi PS

Senior Puisne Judge

SB of Mr. Justice Rooh ul Amin Khan Hon'ble Senior Puisne Judge