

**JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

Cr.M BA No. 3281-P/2021

**Mst. Husna Bibi
Vs
The State**

Date of hearing 25.10.2021

Petitioner (by) Mr. Umer Zafran. Advocate.

State (by) Mr. Mujahid Ali Khan. Addl: AG.

JUDGMENT

MUSARRAT HICALI J. Petitioner (Mst. Husna Bibi), through the instant petition, seeks her release on bail in case FIR No.1807 dated 06.09.2021 u/s 9-D KP CNSA, registered against her at police station Pishtakhara District Peshawar, wherein she was found in possession of four packets heroin weighing 3280 grams.

Arguments heard and appended record perused.

2. Under the provision of Criminal Procedure Code, a woman is entitled to special treatment in matters of body search. Section 52 of the Cr.P.C provides that whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency. Under no circumstances a male

police personnel shall actually touch the person of a woman for making search or arrest.

3. In the instant case, as per the contents of FIR, the complainant found the petitioner standing on road side with a shopping bag in her hand. The shopping bag was searched on suspicion wherefrom allegedly narcotics were recovered. Admittedly, when the petitioner was searched by police on public road in presence of all male police personnel, the norms of decency could not have been observed. The question is that how the petitioner, who is pregnant of six weeks, was searched on road side where there was no prior information of her being involved in trafficking narcotics. It has also been noticed with great concern that though the FIR was registered against the petitioner at 1650 hours but she was sent to Women Police Station at 1950 hours i.e. after a delay of three hours during which she remained in exclusive male police custody as no female constable is shown to have been associated with the proceedings. The situation is extremely intolerable, undesirable and against the statutory and executive directions. That apart, despite lapse of 65 days, the prosecution has

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failed to produce the FSL report of the contraband allegedly recovered from the petitioner.

4. In view of the above, this bail petition is allowed.
5. Above are the reasons of short order of even date.

Announced
25.10.2021


JUDGE

(SB) Hon'ble Justice Musarrat Hllali

Noor Shah