

**JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,  
BANNU BENCH.**

(Judicial Department)

**Cr. Misc: B.A No. 665-B/2023.**

**Aslam Khan  
Vs  
The State .**

**JUDGMENT**

Date of hearing 12.01.2024.

For petitioner:- Mr. Ihsan Ullah Khan Bangash,  
Advocate.

For State:- Hafiz Muhammad Hanif, AAG.

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**FAZAL SUBHAN, J.-** Having failed to get the concession of bail from the learned Court below, petitioner Aslam Khan son of Mamtaz Gul seeks his release on bail through the instant bail application, in case FIR No. 677 dated 08.12.2023, registered under sections 9 (D) KP CNSA, 2019 (Act) of police station Ghoriwala, District Bannu.

2. In this case, report was lodged by Arshad Ullah Khan SHO police station Ghoriwala, who during Nakabandi received information through informer that two persons are smuggling huge quantity of charas from Mir Ali to Lakki Marwat in a white colour Suzuki carry van. On the tip of

informer the complainant laid a barricade when in the meanwhile a carry Suzuki van registration No.CE-3995/Sindh came to the spot which was stopped. The driver of the vehicle disclosed his name as Aslam Zaman son of Khan Zaman while the person sitting along with him was Aslam Khan son of Mumtaz Gul (the present petitioner). Their body search was conducted but nothing incriminating were recovered, however, during cursory interrogation on the spot, they disclosed that charas are lying in the stepney. Upon search of the stepney of vehicle, one cloth bag containing 3 packets of chars, having different quantities, mentioned in the murasila, with total weight of 3675 grams, was recovered. Videography of the recovery was conducted and after separation of samples of 10/10 grams from each packet, 3 samples parcels were prepared and sealed on the spot while the remaining quantity was separately sealed. At the same time the carry van was also taken into possession. Accordingly murasila was drafted and sent to the police station for registration of case.

3. Arguments of learned counsel for petitioner and learned AAG for the State heard and with their able assistance the record was gone through.

4. After hearing the arguments and tentative assessment of record, though allegedly, at the relevant time of occurrence the petitioner was travelling along with co-accused Aslam Zaman, however, during search nothing was recovered from his personal possession while recovery was affected from stepeny of the vehicle. The petitioner was travelling in a carry van with co-accused, who was the driver of the vehicle and, therefore, at this stage it cannot be said that the petitioner had the conscious knowledge of the presence of narcotics in the stepeny of the vehicle and this fact alone is sufficient to make the case one of further inquiry into his guilt. Reliance can safely be placed on case titled *Jhussain Ullah-Vs-The State and another*, reported in 2019 SCMR 1651, wherein the august Supreme Court has held as under:-

“After hearing the learned counsel for the petitioner, learned Law Officer and perusal of available record, it has been observed by us that when the petitioner was arrested by police, he was not driving the car nor any narcotic was recovered from his exclusive possession rather he was sitting on the rear seat of the car. Learned Law Officer has confirmed under instructions of the police office present in Court that there is nothing on the record to connect the petitioner with the car. In these circumstances, the case of the petitioner becomes one of further inquiry falling within the ambit of section 497 Code of

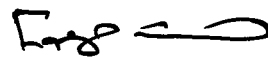
Criminal Procedure. He is behind the bars since 16.03.2017 and nothing is to be recovered from him. In this backdrop, no useful purpose shall be served by keeping him incarcerated for an indefinite period"

5. Resultantly, the instant bail petition is accepted and the petitioner is released on bail provided he furnishes bail bonds of Rs. 3,00,000/-(Rupees Three Lac) with two local and reliable sureties each in the like amount to the satisfaction of trial Court/ Illaqa Judicial Magistrate/ MOD concerned.

These are the detailed reasons of my short order of even date.

**Announced.**  
**12.01.2024.**

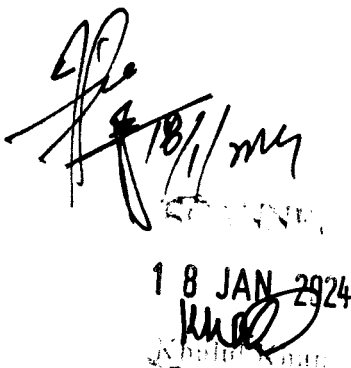
Ihsan.\*/-



**J U D G E.**

(D.B)

Hon'ble Mr. Justice Fazal Subhan.



18 JAN 2024