

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)

Cr: Misc: BA No. 667-B / 2023

Zeeshan
Versus
The State etc.

JUDGMENT

Date of hearing 12.01.2024

For petitioner: Mr. Bashir Ahmad Khattak,
Advocate.

For the State: Hafiz Muhammad Hanif, A.A.G.

FAZAL SUBHAN, J.--- Instant is a bail application of petitioner Zeeshan son fo Nasib Ullah, who is seeking his post-arrest bail in connection with case F.I.R No.571 dated 22.10.2023 u/s 9 (D)/11 (B) of Khyber Pakhtunkhwa Control of Narcotics and Substances Act, 2019 of Police Station, Yaqoob Khan Shaheed, Takht-e-Nasrati, District Karak.

2. The prosecution case is that on 22.10.2023, Abdus Salam ASI, during search and strike operation of the area along with other police party, mentioned in the FIR, was present on the spot when saw a person having plastic bag in his left hand, who on seeing the police party tried to

escape, however, he was chased and apprehended and the plastic bag was taken into possession by the complainant. On checking the same 2 packets of charas were recovered. On weighment total charas came out 2524 grams. On further checking of the plastic bag a small plastic envelope containing 115 grams Ice was recovered. 5/5 grams charas was separated from each packet for FSL and sealed in separate parcels No.1 and 2 while the remaining charas was sealed in parcel No.3. Similarly, 01 grams Ice was separated from the whole stuff for FSL analysis and sealed in parcel while the remaining 114 grams Ice was sealed in parcel No.5. On cursory interrogation the accused disclosed his name as Zeeshan son of Naseeb Ullah. After necessary proceedings on the spot, murasila was sent to the Police Station, hence, the case in hand was registered against the petitioner.

3. Arguments of learned counsel for petitioner and that of learned AAG for the State heard and record perused.

4. After hearing arguments and tentative assessment of record, it is clear that though petitioner is directly charged in the FIR and considerable quantity of charas were allegedly recovered from his direct/conscious possession, however, learned counsel for petitioner produced secondary school certificate of the petitioner which shows his date of birth as 28.4.2007 and as per the said certificate, at the time of alleged offence i.e. on 22.10.2023, his age was 16 years, hence for all practicable purposes he is a juvenile and, therefore, under section 6 sub-section 1 of the Juvenile Justice System Act, 2018, he deserve the concession of bail. Record further shows that after the alleged recovery no videography whatsoever was carried out and, therefore, the judgment passed by this court in Cr. MBA No.2729-P/2022 has not been complied. Moreso, the sample parcels were sent to the FSL authorities after 5 days of delay which also provides a ground for consideration of this Court at bail stage.

5. For all the above reasons, the instant petition is accepted and the petitioner is released

on bail provided he furnishes bail bonds of Rs.2,00,000/-(Rupees Two 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



JUDGE

(S.B)

Hon'ble Mr. Justice Fazal Subhan

18/1/2024
18 JAN 2024
[Signature]