

## Judgment Sheet

**IN THE PESHAWAR HIGH COURT, PESHAWAR**  
**JUDICIAL DEPARTMENT.**

Cr.Misc. (B.A) No. 960-P/2021

Noor Bahar etc ... Versus... The State

**ORDER**

Date of hearing.....09.04.2021.....

Petitioner (s) by:- Mr. Khizar Hayat Khazana, Advocate.

State by:- Mr. Tariq Kakar, Special Prosecutor  
ANF

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**ROOH-UL- AMIN KHAN, J:-** Through this single order this court proposes to decide this and the connected Cr.Misc. BA No. 939-P/2021 and Cr.Misc. BA No. 1019-P/2021 as these are the outcome of a single FIR No. 15/2021 dated 03.03.2021 under section 9-C /15 Control of Narcotic Substances Act, 1997 registered at Police Station ANF Khyber Pakhtunkhwa, Peshawar.

2. According to the prosecution case, on 03.03.2021 on receipt of secret information about transportation of huge quantity of addictive tablets to Afghanistan via Torkham Boarder, the ANF police started checking passenger's vehicle and in the meanwhile, the accused-petitioners holding yellow shopping bags in their hands,

who disclosed their names as Muhammad Tahir Bakhtani, Noor Bahadar, Haroon Mohmand, Nasrat Ullah and Khalid. On search of the shopping bags, addictive tablets i.e. clomfranil, Nervin, Rivotril 2mg, vauom 10 mg, Arinac 400 and 40 mg were recovered hence, the present FIR.

3. Having heard the arguments of learned counsel for the parties, perusal of record would reveal that though certain medicines have been shown recovered from the personal possession of each petitioners but none of the recovered items are listed in any schedule under Rule 2(1) of the Drugs of Abuses, Controlled Chemicals, Equipment and Materials) Rules, 2001. According to chemical analysis, benzodiazepine drug was detected in some of the parcels/samples, which is not a prohibited substance as enumerated in schedule under Rule 2(1). Not only the same is not listed in any schedule but also neither fall in the definition of “control chemical” nor of “high risk” drugs. So far as the positive report of pseudoephedrine in some medicines is concerned, no doubt, it is a control chemical under schedule –V but the same is one of content and ingredients of some of medicines, which are frequently available in open market, on all medical stores. It cannot be denied that the

medicines allegedly recovered from the possession of the petitioners are manufactured from re-known companies like Sun and Abbot Pharmaceuticals and according to its introductory literature, these medicines are mostly used for obsessive compulsive disorder with muscular weakness associated with repeated attacks of sleepiness, to maintain a consistent level of medicine in the body. It is yet to be determined by the learned trial court after recording of prosecution evidence that the recovered tablets were having narcotics and prohibited substance or otherwise, however at this stage makes the case of accused-petitioners one of further inquiry entitling them to the concession of bail.

4. Resultantly, this and the connected Cr.Misc. BA No. 939-P/2021 and Cr.Mis. BA No. 1019-P/2021 are allowed. The accused-petitioners are ordered to be released on bail provided they furnish bail bonds to the tune of Rs. 80,000/- (rupees eighty thousand) with two local, reliable, resourceful and men of means sureties each in the like amount to the satisfaction of Illaqa Judicial Magistrate/MOD.

**Announced**  
**09.04.2021**

**Senior Puisne Judge**