

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

Cr.Misc.BA 754-P/2017

Date of hearing:- 12.06.2017

Petitioner(s):- Iftikhar Ahmad by Mr.Noor Alam Khan, Advocate
Supreme Court.

Respondent (s):-Mr. Moeen ud Din Hamayoun, AAG.

ORDER

ROOH-UL-AMIN KHAN, J:- Petitioner Iftikhar Ahmad, seeks bail in case FIR No.23 dated 10.03.2017, registered under section 9 (c) Control of Narcotic Substances Act, 1997, (herein after referred to as the Act of 1997), in Police Station ANF RD, KP, Peshawar.

2. As per contents of FIR, on 10.03.2017 at 17.00 hours, on receipt of spy information qua trafficking of Acetic Anhydride (a chemical used in preparation of heroin), by Iftikhar Ahmad (present petitioner), in his Suzuki motorcar bearing registration No.BC.8491, Peshawar from Peshawar to Karkhano, Hafiz Sohail Umar Gondal, Inspector ANF along with other ANF personnel, conducted a barricade near Speen Jumat University Town Peshawar and at 17.00 hours, intercepted the aforesaid vehicle, being driven by the petitioner. On search, of the car, a cane having 4.500 Kgs Acetic Anhydride were recovered, out of which 10 Milliliter were separated for the

purpose of chemical analysis by the FSL. The petitioner was arrested, hence, this case.

3. Learned counsel for the petitioner vehemently argued that the alleged recovered Acetic Anhydride is an acid used for multiple purposes i.e. drying clothes etc and can also be used for surfacing/polishing of heroin, hence cannot be held as narcotics drug defined under section 2 (s) of the Act of 1997.

4. I am not impressed by the arguments of learned counsel for the petitioner for the reason that section 6 of the Act of 1997, says that no one shall produce, manufacture, extract, prepare, possess, offer for sale, sell, purchase, distribute, deliver on any terms whatsoever, transport, dispatch, any **narcotic drug, psychotropic substance** or **controlled substance** except for medical, scientific or industrial purposes in the manner and subject to such conditions as may be specified by or under this Act or any other law for the time being in force. Narcotic drug has been defined under section 2 (s) of the Act of 1997 in the following manner:-

“Narcotic drug” means coca leaf, cannabis, heroin, opium, poppy straw and all manufactured drugs.”

Similarly, **“psychotropic substance”** is defined under section 2 (za) of the Act of 1997, as under:-

“Psychotropic substance” means the substances, specified in the Schedule to this Act

and such substances as the Federal Government may, by notification in the official Gazette, declare to be a psychotropic substance”.

According to definition of “psychotropic substance”, psychotropic substance means the substances specified in the Schedule to this Act and such substances as the Federal Government may, by notification in the official Gazettee, declare to be a psychotropic substance.

Section 2-K of the Act of 1997 defines “**Controlled substances**” means any substance, which may be used for the production or manufacture of narcotic drugs or psychotropic substance. The recovered contraband under the name of Acetic Anhydride falls within the ambit of “**manufacture drug**” as defined under section 2(q) of the Act, 1997 as well as notified in the official gazette made in pursuance of the recommendations of an International Drugs Control Convention and incorporated in Schedule-V (Controlled Chemicals), Division-II of Drugs of Abuse Controlled Chemicals, Equipment and Materials) Rules, 2001.

As per scientific research the Acetic Anhydride is the primary substance for making heroin from opium and morphine. In view of the above, the possession of recovered chemical i.e. Acetic anhydride being a primary substance used for production of heroin is manifest contravention of the provisions of section 6, punishment

for which has been provided under section 9 of the Act of 1997.

5. Reverting to the merit of the case, it appears from the record that petitioner has been arrested red handed on the spot and huge quantity of Acetic Anhydride, used in preparation of heroin, has been recovered from the diggi of the car which was in his explosive possession and control. The positive FSL report and statements of the recovery witnesses under section 161 Cr.P.C. substantiate the version of the Seizing Officer. Nothing is on the record to show any ill will or enmity of the of the PWs against the petitioner. On tentative assessment of the material discussed above, reasonable grounds exist which prima facie connect the petitioner with the commission of offence, hence, he is not entitled to the concession of bail.

6. Accordingly, this petition being meritless is hereby dismissed.

Announced:
12.06.2017

Siraj Afridi P.S.

JUDGE