

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

Cr.Misc.BA No.3318-P/2021

Muhammad Ayaz son of Ali Haider,
r/o Qadra Gadoon, District Swabi.

Petitioner (s)

VERSUS

The State

Respondent (s)

For Petitioner (s) :-
For State :-
Date of hearing:

Mr. Jan Afsar, Advocate.
Mr. Arshad Ahmad, AAG
22.10.2021

ORDER

ROOH-UL-AMIN KHAN, J:- Petitioner Muhammad Ayaz, seeks post arrest bail in case FIR No.666 dated 15.09.2021, registered under section 11(b) KP Control of Narcotic Substances Act, 2019, at Police Station Lahor Swabi.

2. According to FIR on 15.09.2021 at 1900 hours, Inspector Akbar Ali Police Station Lahor along with other police officials named in the FIR during *Nakabandi* on a thoroughfare leading to *Mohallah Chakki-chum*, intercepted the petitioner and from side pocket of his shirt, recovered 151 grams Methamphetamine (Ice) contained in a polythene bag, from which he separated 01 gram as sample for chemical analysis by the FSL, hence, this case.

3. Arguments of learned counsel for the parties heard and record perused.

4. In the site plan the place of occurrence is shown on a thoroughfare of Mohallah Chakki-chum leading from North to the South and vice versa. Towards its East and West houses have been shown. As per prosecution's story the petitioner was proceeding on foot towards the place where the police had conducted *Nakabandi*, which place as per site plan, seems quite visible from a considerable distance from the place wherefrom the petitioner was allegedly proceeding towards the police. Whether a person having narcotics in his possession despite noticing police from sufficient distance and having an opportunity to decamp from the spot would still opt to proceed towards the police and offer his arrest, as is shown in the instant case, pinches a prudent mind about the prosecution's story, credibility and authenticity of which is yet to be proved during trial, however, at the moment, it makes the case of the petitioner arguable for the purpose of bail.

5. Yet there is another aspect of the case, on 08.10.2021, learned counsel for the petitioner apprised the court as per Daily Diary No.18 dated 15.09.2021, some nine FIRs, have been registered against different accused in the same Police Station. Accordingly, Complainant-seizing Officer along with daily diary No.18 (supra) and FIRs from S.No.661 to 669 dated 15.09.2021, along with DPO and SP, Investigation, Swabi was summoned for the next date of hearing.

6. On 18.10.2021, the worthy DPO Swabi produced a detailed statement of narcotics cases registered in Police Stations

of District Swabi, according to which from 01.01.2021 till 11.10.2021 total 611 cases of narcotics have been registered against 654 accused, out whom 510 are on bail, while 140 are still behind the bars, whereas, trials of 594 accused are pending before the trial Courts. Registration of 611 narcotics cases in a short period of ten month wherein 510 have been released on bail speak volume about inefficiency of the Police Officers of Police Stations District Swabi. There is a general perception about police, in a few Districts including District Swabi that it falsely and wrongly implicates innocent peoples in fake and frivolous narcotic cases on the basis of known “ progress FIR” merely to show the efficiency of police official. It is also reported that some time influential people implicates their opponents in false FIRs of narcotic cases to harass them through police against a meager amount of illegal gratification. No doubt, there are elements everywhere in the province dealing in detestable business of narcotic and the FIR is the only clue to the police on the basis of which it start investigation, as such, its importance cannot be denied, however its misuse by the police official has to be discouraged by the high-ups setting on helm of affair as police officers in the District. Registration of large number of fake FIRs will not only shatter the public trust on police officials, but shall also exhibit their inefficiency to control the crimes in the jurisdiction of their respective Police Stations. The worthy DPO when confronted with the alarming situation of narcotic cases in the district, he stated that though the use of narcotic is at high

level in district swabi as compare to other districts but admittedly some exaggeration in registration of the cases is visible. He assured to curb the menace in the district and also to look into the matter of registration of fake FIRs in the District Swabi.

7. Accordingly, this petition is accepted. Petitioner is allowed bail. He shall be released on bail provided he furnishes bail bonds in the sum of rupees two lacs with two local, reliable and resourceful sureties each in the like amount to the satisfaction of the learned Illaqa Judicial Magistrate/MOD concerned.

8. The learned Additional Registrar (Judicial) shall send copy of this order to the Inspector General of Police (IGP) Khyber Pakhtunkhwa, for looking in to the matter and digging out the truth. Steps and actions taken in this regard shall be intimated to this court through the Additional Registrar (Judicial).

Announced:

22.10.2021

M.Siraj Afridi PS

Senior Puisne Judge

SB of Mr. Justice Rooh ul Amin Khan Hon'ble Senior Puisne Judge