

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
AT GILGIT
Cr. P. L. A. No. 14/2014

Before:- Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.
Mr. Justice Raja Jalal-ud-Din, Judge.
Mr. Justice Muzaffar Ali, Judge.

Saif-ur-Rehman son of Samandar Khan resident of Patan District Kohistan KPK.

Petitioner/Appellant.

VERSUS

The State through ANF

Respondents.

PETITION FOR LEAVE TO APPEAL AGAINST THE IMPUGNED ORDER DATED 3/9/2014 PASSED IN CRIMINAL MISC. 65/2014 BY THE LEARNED DIVISION BENCH CHIEF COURT GILGIT-BALTISTAN WHEREBY LEARNED CHIEF COURT DISMISSED BAIL APPLICATION FILED BY 51 CNSA AND 497 Cr.P.C.

FOR SETTING ASIDE IMPUGNED JUDGMENT PASSED BY SESSION JUDGE GILGIT DATED 27-05-2014 AND IMPUGNED JUDGMENT DATED 3-9-2014 PASSED IN CR. MISC. NO.65/2014 BY THE DIVISION BENCH CHIEF COURT AND PETITIONER/APPELLANT MAY BE RELEASED ON BAIL BY CONVERTING THE PETITION FOR LEAVE TO APPEAL INTO APPEAL TO MEET THE ENDS OF JUSTICE.

Present:-

Mr. Amjad Hussain, Advocate for the petitioner.

Haji Jamal Khan, Advocate Special Prosecutor ANF Gilgit.

Date of Hearing:- 27-10-2014.

JUDGMENT

Raja Jalal-ud-Din, J..... The appellant/petitioner namely Saif-ur-Rehman has been arrested and detained for possession of "Charas Gardah" weighing 3000 grams and FIR recorded by the Anti Narcotics Police Gilgit under section 9 (CNSA). The petitioner preferred a bail application before the trial court which was declined and the same was also declined by the Chief Court Gilgit-Baltistan.

Being aggrieved by the same the petitioner preferred the bail application under adjudication in this court. The learned counsel for the petitioner is of the view that the case made out against him is concocted and he has falsely been implicated in the case. The merits of the investigation are also in his favour, thereby entitling him for concession of bail.

The case is of a nature where the benefit of doubt should have been extended in his favour and also that it was a fit case for further inquiry and thereby the concession of bail should have been extended in his favour. The learned counsel for the petitioner is also of the view that the story forwarded by the prosecution is not plausible and many facts have been concealed. The investigation of the case has not properly been conducted. The mandatory provisions section 103 Cr.P.C has not been followed and no private individuals have been cited as recovery witnesses.

The ANF through Haji Jamal Khan, Advocate Special Prosecutor argued that the matter is a straight forward case of narcotics recovered from the accused in broad day light. The petitioner being a drug dealer, had been carrying-out his business for quite some time in Gilgit-Baltistan. He supplied drugs to other dealers throughout the area. There is no malafidy intention of implicating the accused who belongs to Patan Kohistan. There is no infirmity in the investigation of the case entitling the petitioner for the concession of bail.

We have perused the file on the points raised by the counsel for the petitioner. The information regarding the possession of drugs by Saif-ur-Rehman petitioner was given by another accused Ghazanfar Ali who had been arrested for possession of drugs in F.I.R. No. 05/2014 Police Station.

The recovery of the drugs has taken place in broad day light and witnesses cited as per the requirements of section 25 of CNSA

1997, where the applicability and the necessity of section 103 Cr.P.C is not validated.

We feel that there is a prima facie case against the accused and hence the petition is declined. However the Special Prosecutor ANF Gilgit Haji Jamal Khan, Advocate assures the court that he is ready to adduce all his witnesses in Court and conclusion of the trial will be facilitated within one month from today. The undertaking of the counsel for Anti Narcotics Force should be honored by him and the case to be concluded within one month from today as pledged. If not done so the petitioner is at liberty to move a fresh bail application in the trial Court with the issue of delay, if the pledge of concluding of the trial is not completed within the specified period.

The petition with the above observations is disposed off accordingly.

Announced:- 27-10-2014.

Chief Judge

Judge

Judge