

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI.**

Before:  
Mr. Justice Muhammad Iqbal Kalhoro Mr.  
Justice Khadim Hussain Tunio

**C.P. No.D-1094 of 2023**

Mrs. Afshan Salman & another  
Vs.  
Federation of Pakistan & others

**20.03.2023**

Mr. Irfan Ahmed Memon, advocate for petitioner  
Mr. G.M. Bhutto, Assistant Attorney General a/w Insp. Habib ur Rehman,  
FIA, ACC, Dr. Shoib Ahmed DRAP.

**ORDER**

**Muhammad Iqbal Kalhoro, J:** - Petitioner No.1 is wife of petitioner No.2 namely Salman Abdul Majeed, who is accused and confined in jail in FIR No.09/2023 dated 02.02.2023 u/s 23(1) (a) (vii), 23 (1) (i) punishable u/s 27 the Drugs Act, 1976 registered at P.S. FIA, Anticorruption Circle, Karachi, has filed this petition seeking, although multiple reliefs, but mainly quashment of proceedings pending before the Drug Court of Sindh at Karachi on the ground that registration of FIR is in violation of sections 18(1), (f to j) and 19(b) of the Drugs Act, 1976, which require a necessary and prior permission from Central Licensing Board (CLB) for lodging an FIR.

2. We have heard learned counsel for petitioner who in support of his case that FIR is illegal and *corum non judice*, therefore, not sustainable in law has relied upon 2019 P Cr. L J 163, 1998 P Cr. L J 181, 2006 MLD 668, 1996 SCMR 767, 1994 P Cr. L J 1065, 2002 YLR 1612.

3. On the other hand, learned Assistant Attorney General accompanied by the I.O. of the case has supported FIR and has submitted that Central Licensing Board in its meeting held on 1.10.2014 delegated several of its powers independently to different members in order to facilitate timely disposal of routine and day to day business of the Board. The power of permission to lodge FIR at Sr. No.15 was accordingly delegated to the Director, Quality Assurance and Laboratory Testing, DRAP, Islamabad, who is one of the members of the Central Licensing Board. Before the FIR was registered on 02.02.2023 at 1635 hours, the permission to register FIR vide letter of even dated was received by the I.O. through fax from the said official viz. Director, (QALT) DRAP, Islamabad, and which fact is duly mentioned in FIR itself, therefore, there is no illegality in

registration of FIR or in subsequent proceedings either taken by I.O. or by the trial court.

4. Very briefly put, the facts of the case are that in response to an enquiry No.20/2023, a raid was conducted at the premises of M/s Amanullah Traders by FIA, ACC, Karachi from where a huge quantity of unwarranted different drugs including vaccines, biological and other injection of local and international origin was recovered which was found stored at uncontrolled temperatures and under unhygienic conditions. The people working there were found erasing printed prices and names of institutions available on unit cartoons; three unregistered drugs Bactrim Injection, Centrum Tablet and Peyona Injection, and packing material for imported Gammaras Injection, its leaflet and stamps used for manipulation and disguising of original were also found. Incriminating material and drug products were seized in terms of section 18(1) of Drugs Act, 1976. Suspected samples were taken for test/analysis and store incharge, petitioner No.2, Salman Abdul Majeed was taken into custody.

5. After such raid, a written complaint by Federal Inspector of Drugs namely Dr. Shoib Ahmed posted at Karachi was sent to FIA Anticorruption Circle Karachi. Therefrom, the case file containing all proceedings was forwarded to the Secretary, Central Licensing Board/ Director (QALT) DRAP Islamabad seeking permission for safe custody of seized stock and for registration of FIR. It was only after the permission was accorded, the instant FIR was registered. Second page of FIR, the back of the first page, has application of Dr. Shoib Ahmed, Federal Inspector of Drugs to the Deputy Director, FIA Anticorruption Circle at Karachi reproduced, conveying entire information about raid and proceedings conducted during the raid, name of spurious and unregulated drugs seized. The permission by Director (QA&LT), DRAP Islamabad for keeping safe custody of the seized stock till the decision of the case alongwith permission for registration of FIR against accused persons is also duly reflected in FIR.

6. The minutes of meeting of the Central Licensing Board dated 1.10.2014, a copy of which has been provided by the I.O., indicates clearly that the Board had approved and delegated its different powers to various members with certain modification in order to facilitate timely disposal of routine and day-today business of the Board. Sr. No.15 in the table of the minutes of the meeting shows that powers to accord permission to lodge FIR has been assigned to Director (QA&LT). The question whether Central Licensing Board is competent to delegate its power to one of members or not is not before us, nor the point whether after such delegation of power, the delegatee can exercise such power or

not. The petitioner has not questioned the delegated powers of Director (QA&LT) DRAP nor learned counsel in the arguments has assailed his powers to grant permission for registration of FIR.

7. The whole case of the petitioner which has been reiterated by her counsel in the arguments in fact hinges upon her assessment and understanding that FIR against her husband has been registered in violation of scheme u/s 18 and 19 of the Drugs Act, 1976 which require a necessary permission for acting so. Such extrapolation of the petitioner, in view of the documents submitted by the I.O. appear to be ill founded and not sustainable, to say the least.

8. On a source report, an enquiry was ordered and during enquiry proceedings, the raid was conducted at M/s Amanullah Traders' premises, where from a huge quantity of unwarranted different drugs: spurious and uncontrolled were recovered. After such recovery, a proper procedure was followed by Federal; Drug Inspector by forwarding a written complaint to FIA, Anticorruption Circle, Karachi. Acting on his complaint and raid proceedings, a complete file of the case was prepared and forwarded to the Director (QA&LT), DRAP in compliance of the minutes of Board meeting dated 1.10.2014 for safe custody of the seized drugs and permission to register FIR as provided u/s 18 and 19 of the Drugs Act, 1976. After the necessary permission, FIR was registered and meanwhile as the record shows, the charge sheet/Challan has also been submitted. The petitioner instead of filing an application before the Drug Court for his acquittal u/s 249-A or 265-k Cr.P.C as the case may be, has filed this constitution petition directly for quashment of FIR which in view of ratio of judgment reported in 2006 SCMR 1957, 2011 SCMR 1813 and PLD 2013 SC 401 is not maintainable firstly. And secondly even on merits, as discussed above, the petitioner has failed to establish the case of quashment of FIR, the same being registered after necessary permission envisaged under the law.

9. Besides challenging proceedings before the Drug Court and registration of FIR, the petitioner has also sought release of her husband, petitioner No.2 Salman Abdul Majeed to post arrest bail till decision of the petition. We may observe that relief of bail either pre arrest or post arrest is independent of other reliefs for which provisions under the law is available. In this case when u/s 497 Cr.P.C adequate and specific remedy is available to the accused, filing of the petition for such purpose is not maintainable. Although learned counsel for petitioner during arguments did not comment upon the relief of bail, but we have seen at page 57 of the file, that bail application of the petitioner No.2 has been dismissed by the Drug Court vide order dated 18.02.2023. Whether he has filed any application

before this court against that order or not has not been informed to us. But in any case since specific and clear provision for bail is available under the law, the petitioner is best advised to avail the same and his request to grant him the same as an alternative relief is not maintainable. The case law relied upon by learned counsel for petitioner are distinguishable, based on different facts and circumstances, are not attracted to the vires obtaining in this case. This being the position, we do not find any merit in this petition and dismiss it accordingly alongwith pending application(s).

The petition is dismissed in the above terms.

**Judge**

**Judge**

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