

2010 S C M R 1989

[Supreme Court of Pakistan]

Present: Anwar Zaheer Jamali and Ghulam Rabbani, JJ

THE STATE---Petitioner

Versus

JAVED KHAN---Respondent

Criminal Petition No. 74-K of 2010, decided on 9th September, 2010.

(On appeal from order of Sindh High Court, Karachi dated 1-6-2010, passed in Criminal Bail Application No. 519 of 2010).

(a) Criminal Procedure Code (V of 1898)---

---S. 497(5)---Control of Narcotic Substances Act (XXV of 1997)---Ss.9(c) & 51(1)---Recovery of narcotic substances---Bail, cancellation of---Death sentence---Narcotic substance weighing 5-1/2 kilograms was recovered from accused who was granted bail by High Court---Validity---Case of accused did not fall within prohibitory clause of S. 497 Cr.P.C., as the offence was covered by section 9 (c) of Control of Narcotic Substances Act, 1997, providing for various sentences, which not only fell within prohibitory clause of S. 497 Cr.P.C. but also attracted the bar contained in section SI(1) of Control of Narcotic Substances Act, 1997, which was specifically made applicable to those offences which provided for punishment of death sentence---Approach of High Court releasing accused on bail was arbitrary, without application of mind and contrary to settled principles of law thus unsustainable---Supreme Court converted petition for leave to appeal into appeal and order admitting accused on bail was set aside and bail application before High Court was dismissed---Appeal was allowed.

Ghulam Murtaza v. State PLD 2009 Lah. 362 ref.

(b) Control of Narcotic Substances Act (XXV of 1997)---

----S. S1(1)---Bail---Special provision---Scope---When law makers have provided some special provision in statute to bar the jurisdiction of Special Court established under such enactment, due weight is to be given to such special provisions of law as against general principles governing such cases, when accused approaches Special Court or High Court for grant of bail.

Zafar Ahmed Khan, Additional Prosecutor-General and Mazhar Ali, Chohan, Advocate-on-Record for Petitioner.

Nemo for Respondent.

Date of hearing: 9th September, 2010.