

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 119 of 2025.

Applicants : 1. Ramzan Ali son of Muhammad Yaqob
2. Saqib son of Ghulam Qadir,

Through Mr. Zahoor Ahmed, learned advocate

Criminal Bail Application No. 904 of 2025.

Applicant : Ramzan Ali son of Muhammad Yaqob
Through Mr. Zahoor Ahmed, learned advocate

Respondents : The State
through Mr. Qamaruddin, DPG Sindh.

Date of hearing : 25.04.2025

Date of order : 05.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J.- By this consolidated order, both bail applications, arising from the same criminal proceeding registered under Crime No. 10 of 2024 for offences punishable under Section 9(1), clause 6(d), and Section 9(2), Serial No. 04 of the Control of Narcotic Substances (Amendment) Act, 2022, registered at Police Station Excise, West Karachi, are being adjudicated collectively. It is pertinent to mention that earlier applications for bail filed by the accused were dismissed vide orders dated 28.03.2025 and 05.07.2024, respectively, by the learned Additional Sessions Judge-II, Karachi West.

2. Brief facts outlined in the First Information Report (FIR) are that: on 13.06.2024, a police contingent led by Inspector Syed Fayyaz Hussain Shah of the Excise Police Station, District West Karachi, apprehended the present applicants, namely Ramzan Ali and Saqib. It is alleged that at the time of arrest, both accused were found actively engaged in the preparation of sachets containing narcotic substances, specifically heroin powder and methamphetamine ("Ice"). Upon search, the police recovered

from their joint possession 450 grams of methamphetamine (Ice), 1000 grams of “crush” heroin, and 950 grams of heroin powder. Consequently, a criminal case was registered against the applicants based on the aforementioned allegations.

3. Learned counsel for the applicants contended that although the alleged occurrence took place on 13.06.2024 between 09:30 a.m. and 10:30 a.m., the FIR was registered belatedly at about 12:00 p.m., thereby casting serious doubt upon the veracity of the prosecution’s version. It was further submitted that while the quantity of the contraband allegedly recovered is considerable, it does not attract the maximum punishment of life imprisonment or death, and hence, the present case does not fall within the prohibitory clause as contemplated under Section 497(1), Cr.P.C. He additionally argued that applicant Ramzan Ali is afflicted with grave medical conditions, and adequate medical care is not available within the confines of the prison facility, which constitutes a compelling ground for the grant of bail on humanitarian considerations. He further challenged the reliability of the recovery proceedings by asserting that a joint recovery memo was prepared for both accused, which, in his submission, renders the recovery doubtful and tainted. Moreover, he submitted that no independent witnesses or private individuals were associated as mashirs to the alleged recovery and arrest, nor was any video footage or other corroborative material produced to establish that the applicants were apprehended from the alleged place of occurrence. He emphasized that, to date, not a single prosecution witness has been examined, and given the prevailing circumstances, the trial is unlikely to conclude in the near future. In support of his submissions, learned counsel placed reliance upon a catena of precedents, inter alia, 2024 SCMR 934, PLD 1995 SC 58, Criminal Petition No. 146/2025, SBLR 2017 Sindh 1008, 2017 SCMR 1194, SBLR 2018 Sindh 1295, 2018 P.Cr.L.J. 1308, and 2018 P.Cr.L.J. Note 94.

4. Conversely, the learned DPG, while opposing the instant bail applications, submitted that the applicants were apprehended at the scene of the occurrence, and a substantial quantity of narcotic substances, comprising methamphetamine (“Ice”) and heroin, was recovered from

their joint possession. He argued that the quantum of the recovered contraband squarely attracts the prohibitory clause of Section 497(1), Cr.P.C., inasmuch as the punishment prescribed for such offences under the Control of Narcotic Substances Act, 1997, extends up to life imprisonment. Addressing the plea of medical hardship advanced on behalf of applicant Ramzan Ali, the learned DPG contended that mere ailment, in the absence of any life-threatening condition or demonstrable denial of adequate medical treatment within the jail premises, does not constitute a valid ground for enlargement on bail in cases falling within the prohibitory clause. He further submitted that the case law relied upon by learned counsel for the applicants is clearly distinguishable on facts and does not lend any material support to the applicants' plea for bail. The learned DPG also emphasized that there is no allegation of prior enmity, ill-will, or mala fide on the part of the police authorities which could suggest false implication of the accused. In his view, the recovery of a considerable quantity of narcotics from the joint possession of the applicants, coupled with the absence of any apparent motive for false implication, suffices at this stage to disentitle the applicants from the concession of bail.

5. Before advertent to the merits of the case, it is incumbent upon this Court to address a procedural irregularity that has come to light. The record reveals that the applicants had initially filed a joint bail application, wherein all grounds available at the time ought to have been consolidated and addressed. However, during the pendency of the said joint application, applicant Ramzan Ali proceeded to file a successive bail application on the purported additional ground of medical ailment, without first withdrawing the earlier application or obtaining leave of the Court. Such conduct, in the considered view of this Court, amounts to an abuse of the process of law and reflects procedural impropriety. The filing of multiple bail applications in a piecemeal manner, especially while one remains *sub judice*, undermines the principles of judicial discipline, encourages forum shopping, and results in unnecessary burden on the judicial docket. It is a settled principle that successive bail applications on supplementary grounds must demonstrate either a material change in circumstances or substantial new evidence, failing which they are liable to

be dismissed summarily. The learned counsel representing the applicants, being an officer of the Court, is expected to conduct proceedings with procedural propriety and candor. His act of filing a second bail application without disclosing the pendency of the first and without express permission of the Court is strongly deprecated. A stern caution is accordingly administered to learned counsel to ensure strict adherence to procedural fairness and judicial decorum in all future proceedings. Repetition of such conduct may entail adverse consequences, including the imposition of costs or other appropriate measures.

6. A plain reading of the FIR unequivocally reflects that both accused persons were apprehended at the scene of the offence, and from their joint possession, a substantial quantity of contraband substances, including heroin and methamphetamine, was recovered. The nature, classification, and quantity of the seized narcotics clearly attract the rigors of the prohibitory clause embodied in Section 497(1) Cr.P.C. as the punishment prescribed under the Control of Narcotic Substances Act, 1997, for such offences may extend to life imprisonment.

7. With regard to the plea of medical hardship advanced on behalf of applicant Ramzan Ali, it merits no consideration in the absence of cogent and credible medical evidence establishing that the applicant is suffering from any serious, contagious, debilitating, or life-threatening ailment. The only document placed on record in this regard is a letter issued by the Senior Medical Officer of the District Prison & Correctional Facility, Malir, Karachi, wherein it is merely opined that the applicant requires further investigation, imaging, and specialist consultation with a Urologist. No medical diagnosis, no laboratory findings, and no expert opinion confirming the existence of a grave medical condition have been produced. Furthermore, no document has been brought on record to establish any prior or chronic medical history relating to urological or other systemic diseases. In the absence of demonstrable urgency or medical exigency, a vague recommendation for specialist consultation cannot form the basis for granting bail in a case involving an offence of such gravity. Reliance on such preliminary and inconclusive medical noting, without substantiating the severity or implications of the alleged

condition, does not satisfy the threshold required for invoking constitutional or discretionary relief under the humanitarian exception.

8. It is also noteworthy that, according to the learned Additional Prosecutor General, the requisite medical facilities, including specialist consultations and diagnostic services, are available at Central Prison, Karachi, or can be arranged by the jail authorities in accordance with the applicable prison rules and jail manual. Thus, the applicant's medical plea appears to be an attempt to seek bail on sympathetic grounds, which cannot override the statutory bar imposed by the prohibitory clause in the absence of compelling justification. In view of the foregoing, the medical ground urged by the applicant is found to be unsubstantiated and devoid of legal merit.

9. The legal precedents cited by the learned counsel for the applicant have been meticulously examined and are found to be inapplicable to the facts and circumstances of the present case, both on factual and legal grounds. The present case is distinguishable for the reason that a substantial quantity of narcotic substances was recovered from the scene of occurrence and the joint possession of the accused, and notably, there exists no allegation or even suggestion of mala fide, bias, or ulterior motive on the part of the police that could cast doubt on the bona fides of the recovery or the arrest proceedings.

10. In *Malik Muhammad Yousafullah Khan v. The State* (PLD 1995 SC 58), the Supreme Court granted bail strictly on the ground of medical urgency, only after being satisfied, on the basis of a comprehensive Medical Board report, that the applicant's ailment was of an exceptional nature, which not only endangered life but also necessitated immediate intervention abroad, as the required treatment was not available even within the country. The underlying rationale in that case was the preservation of the constitutional right to life under Article 9 of the Constitution of Pakistan. However, in the present case, the applicant has failed to produce any authoritative or expert medical report certifying that his alleged condition is either imminently life-threatening or untreatable within the existing jail infrastructure. The mere recommendation for

further investigation or referral to a consultant, without a definitive diagnosis or risk assessment, falls significantly short of the threshold articulated by the apex Court.

11. Similarly, the reliance placed on *Gull Raaj alias Babu Bhai v. The State* (SBLR 2017 Sindh 1008) is equally misconceived. In that case, bail was granted upon a conclusive finding that the accused was suffering from a medically confirmed ailment which posed a direct threat to his survival and could not be effectively addressed in custody. No such compelling medical exigency or documented risk exists in the instant matter. The absence of a Medical Board report or even a preliminary diagnosis setting out the severity of the applicant's condition further erodes the credibility of the medical plea. In contrast, guidance may appropriately be drawn from the authoritative pronouncement in *Ghulam Raza v. Khuda Bux & another* (2005 SCMR 1904), wherein the Supreme Court categorically held that the concession of bail on medical grounds is not to be granted in routine or on the basis of generalized ailments. The Court underscored that it is only where the illness is so acute or perilous that its treatment is not feasible within jail premises or the available hospital network that bail may be considered. This doctrine was reaffirmed in *Muhammad Aslam Bajwa v. The State & another* (PLD 2004 SC 780), wherein it was held that mere affliction with a disease does not by itself constitute a valid ground for bail unless it is demonstrated, with medical evidence, that the condition is of such gravity that detention would pose a serious and irreversible risk to life or limb. The same jurisprudential principle was reiterated in 1997 SCMR 1275, fortifying the view that bail on medical grounds must be anchored in credible, persuasive, and expert-certified medical documentation.

12. Furthermore, the unreported judgments cited by the defense counsel, i.e *Muhammad Abid Hussain v. The State and another* and *Shahzado v. The State* (SBLR 2018 Sindh 1295), also failed to advance the applicant's case. In both matters, bail was granted not only on medical grounds but also on a cumulative assessment of other mitigating factors, most notably the fact that the offences therein did not fall within the prohibitory clause of Section 497(1), Cr.P.C. In contradistinction, the

present case undeniably falls within the prohibitory clause, owing to the quantum and nature of narcotics recovered, and therefore attracts a higher threshold for the grant of bail. In view of the foregoing, the case law relied upon by the learned counsel is clearly distinguishable and does not lend any support to the applicant's plea for bail in the context of the serious and non-bailable offence under consideration.

13. The offence with which the applicants stand charged is punishable under the CNS Act, (Amended) 2022, with imprisonment for fourteen years, but not less than ten years. Accordingly, the rigors of Section 51 of the said Act are squarely attracted, which statutorily restricts the grant of bail in cases involving commercial quantities of narcotics unless the Court is satisfied that there are reasonable grounds to believe that the accused is not guilty of such offence and is not likely to commit any offence while on bail. In light of this legal framework, the offence also falls within the ambit of the prohibitory clause as envisaged under Section 497(1), Cr.P.C., which further limits the discretionary powers of the Court to grant bail. Given the gravity of the charge, the severity of the statutorily prescribed punishment, and the absence of any extenuating or mitigating circumstances that could justify judicial leniency, the applicant does not qualify for the concession of bail at this stage. No exception to the rule restricting bail in narcotics cases is discernible from the peculiar facts of the present case. Rather, the recovery of a substantial quantity of narcotic substances from the joint possession of the applicants reinforces the prosecution's prima facie case. This legal position is fortified by the authoritative pronouncements of the Supreme Court in *Muhammad Noman Munir v. The State and another* (2020 SCMR 1257) and *Bilal Khan v. The State* (2021 SCMR 460). In *Muhammad Noman Munir*, despite recovery of 1,380 grams of cannabis and 7 grams of heroin, lesser in quantity than the present case, the Hon'ble Court declined to grant bail on the ground that the prohibition under Section 51 of the CNS Act was applicable, and no mitigating factors were established. Similarly, in *Bilal Khan*, where 1,200 grams of methamphetamine ("Ice") were recovered, the Supreme Court reiterated that the statutory bar under Section 51 prevails, and bail was refused. Moreover, in *Muhammad Noman Munir* (supra), the apex Court clarified that the non-association of public

witnesses during recovery proceedings, though ideal, is not fatal to the prosecution's case. The Court observed that due to social reluctance and lack of cooperation by the general public, association of independent witnesses may not always be feasible. It held that the statements and actions of police officials and other public functionaries, acting in their official capacity, are presumed to be *intra vires* and enjoy a statutory presumption of truth under Article 129(e) of the Qanun-e-Shahadat Order, 1984, unless and until convincingly rebutted by the defense through strong and reliable evidence. The defense, in the instant matter, has failed to discharge this burden or to bring on record any material which would create reasonable doubt as to the legality of the recovery or suggest fabrication or mala fide conduct on part of the official witnesses. In the absence of any plausible challenge to the statutory presumption, the version of the prosecution remains un-impeached at this stage. Therefore, the cumulative effect of the quantity of contraband recovered the statutory bar under Section 51 of the CNS Act, and the binding precedents of the superior judiciary leads to the inexorable conclusion that the applicants are not entitled to the relief of bail.

14. In view of the foregoing discussion and legal analysis, this Court finds that no case for further inquiry, as envisaged under the first proviso to Section 497(2), Cr.P.C., has been made out. The material available on record, at this stage, *prima facie*, reasonably connects the applicants with the commission of the alleged offence, which involves recovery of narcotic substances in a quantity falling within the domain of commercial trafficking and thus attracting the statutory bar imposed by Section 51 of the Control of Narcotic Substances Act, 1997, and the prohibitory clause of Section 497(1), Cr.P.C. No mitigating circumstance or exceptional ground, including that of medical hardship, has been demonstrated to justify departure from the statutory constraints governing bail in such matters. It is a settled proposition of law that in cases involving heinous offences carrying severe punishments, including those under the CNS Act, the concession of bail is to be exercised sparingly and only where the prosecution's case appears patently doubtful or there are compelling grounds of equity or constitutional necessity. None of these factors are present in the instant matter. Consequently, the applicants are found not

entitled to the extraordinary relief of bail at this premature stage of the trial. Accordingly, the instant bail applications stand dismissed.

15. However, in the interest of expeditious justice and to avoid prolonged incarceration pending trial, particularly in light of Article 10-A of the Constitution guaranteeing fair trial and due process, it is directed that the learned trial court shall proceed with the matter diligently and conclude the trial within a period of sixty (60) days from the date of receipt of this order, strictly in accordance with law, and without unnecessary adjournments. Let a copy of this order be transmitted forthwith to the learned trial court for information and necessary compliance.

J U D G E