

**ORDER SHEET**  
**THE HIGH COURT OF SINDH KARACHI**  
C.P No. D-2442 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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- Priority
1. For order on office objection Nos.1 to 3.
  2. For hearing of main case.

**09.07.2025**

Mr. Abid Ali Chand, Advocate for the Petitioner.  
Mr. Haider Saleem, Addl. P.G

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**Zulfiqar Ali Sangi J:-** The Petitioner namely Ali Ahmed Khaskheli son of Ali Muhammad, has been booked in FIR being Crime No.251/2025 registered at P.S Ibrahim Hydri, Karachi, for offence under Section 9(1) 3(B) the Sindh Control of Narcotics Substances Act, 2024. The Petitioner has approached this Court for grant of pre-arrest bail.

2. The details and particulars are already available in the FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel submits that the Petitioner has been falsely implicated in this case and no recovery has been made from the Petitioner; that the only witnesses in the present case were policemen inspite of the fact that the place of incident was thickly populated area; that the alleged recovery of aforementioned substance is foisted upon the petitioner. Learned counsel lastly submits that no photo pictures were taken nor was video recorded at the time of recovery and that in the similar circumstances, the Hon'ble Supreme Court has granted bail. In support of his arguments he relied upon the case of Zahid Sarfaraz Gill v. The State (2024 SCMR 934).

4. Learned Additional Prosecutor General submits that the chemical analysis report confirms the seized substance to be narcotic Charass, weighing 525 grams. As per the Table under Section 9(c) of the Control of Narcotic Substances Act, 1997, the quantity falls within the third category, attracting a minimum

punishment of five years and a maximum of ten years, along with fine. He further contends that the petitioner was apprehended red-handed by the police, and the case against him stands fully established; hence, he is not entitled to the concession of bail.

5. We have heard learned counsel for the parties and have perused the record with their able assistance.

6. On perusal of material available on record, it appears that all the prosecution witnesses are police officials and no independent witness has been cited inspite of the fact that the place of incident was thickly populated area and further the complainant has not recorded the movie or captured the pictures when search, seizure and / or arrest was made as observed by Honourable Supreme Court in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934). The Hon'ble Supreme Court in the case of *Zahid Sarfaraz Gill* has observed as under:-

“ 5. We are aware that section 25 of the Act excludes the applicability of section 103 of the Code of Criminal Procedure, 1898 which requires two or more respectable inhabitants of the locality to be associated when search is made. However, we fail to understand why the police and members of the Anti-Narcotics Force ('ANF') do not record or photograph when search, seizure and / or arrest is made. Article 164 of the Qanun-e-Shahadat, 1984 specifically permits the use of any evidence that may have become available because of modern devices or techniques, and its Article 165 overrides all other laws.

6. In narcotic cases the prosecution witnesses usually are ANF personnel or policemen who surely would have a cell phone with an in built camera. In respect of those arrested with narcotic substances generally there are only a few witnesses, and most, if not all, are government servants. However, trials are unnecessarily delayed, and resultantly the accused seek bail first in the trial court which if not granted to them is then filed in the High Court and there too if it is declined, petitions seeking bail are then filed in this Court. If the police and ANF were to use their mobile phone cameras to record and / or take photographs of the search, seizure and arrest, it would be useful evidence to establish the presence of the accused at the crime scene, the possession by the accused of the narcotic substances, the search and its seizure. It may also prevent false allegations being leveled against ANF/ police that the narcotic substance was foisted upon them for some ulterior motives.

7. Those selling narcotic substances make their buyers addicts, destroy their state of mind, health and productivity, and adversely affect the lives

of their family members. The very fabric of society is damaged. ANF and the Police forces are paid out of the public exchequer. It is incumbent upon them to stem this societal ill. The Prosecution services, paid out of the public exchequer, is also not advising the ANF / police to be do this simple act of making a recording and / or taking photographs as stated above.

8. A consequence of poor investigation, not supported by evidence adversely affects the cases of the prosecution. The courts, which too are sustained by the public exchequer, are burdened with having to attend bail applications because the commencement and conclusion of the trial is delayed. It is time that all institutions act professionally and use all available lawful means to obtain evidence. A credible prosecution and adjudication process also improves public perception. We expect that all concerned will attend to these matters with the attention that they demand, because the menace of narcotic substances in society has far reaching consequences: by destroying entire households, creating societal problems and casting a heavy financial burden on the State when drug addicts are required to be treated. Moreover, research indicates that drugs addicts resort to all methods to obtain drugs, including committing crimes.”

7. Further the offence for which the Petitioner is allegedly involved carried punishment less than 10 years and the same does not fall within the prohibitory clause. Resultantly, this petition is allowed and interim pre-arrest bail granted to the Petitioner/accused vide order dated 30.05.2025 is hereby confirmed on same terms and conditions. The Petitioner is directed to attend the trial. However, it is made clear that if the applicant/accused misuses the concession of bail, learned trial Court would be at liberty to take appropriate action.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the Petitioner accused on merits.

**JUDGE**

**JUDGE**