

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
C.P No. D-2818 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>HEARING.</u>	

- 1. For orders on office objection Nos.1, 2 and 4.
- 2. For hearing of main case.

17.07.2025

Mr. Noor Khan, Advocate for the Petitioner.
Mr. Zahoor Shah, Additional Prosecutor General Sindh.
SIP Qalanadar Bux, P.S. Mominabad, Karachi.

Zulfiqar Ali Sangi, J. – The petitioner, Shahzaib son of Ramzan, is nominated in **FIR No.309 of 2025**, registered at Police Station **Mominabad, Karachi** for the offence punishable under **Section 9(2)3** of CNS (Amendment) Act, 2024. Through the instant petition, the petitioner seeks post-arrest bail.

2. Briefly stated, the facts of the prosecution case as per FIR are that the police party of **P.S Mominabad, Karachi** headed by **Sub Inspector Touheed Ahmed** during patrolling apprehended the petitioner and recovered **54 grams** of **Crystal** from his possession, hence the aforesaid FIR under the provisions of CNS Act has been registered against him.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case and no recovery was affected from him. It is further argued that all the prosecution witnesses are police personnel despite the occurrence having allegedly taken place in a densely populated area. It is submitted that the recovery of **54 grams** of **Crystal** has been foisted upon the petitioner with mala fide intention. The learned counsel has further relied upon the judgment of the Hon’ble Supreme Court in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein bail was granted in a case involving a larger quantity of narcotics.

4. Conversely, learned Assistant Prosecutor General opposes the petition by submitting that the chemical examiner's report confirms the recovered substance to be **Crystal**, weighing **54 grams**. As per the relevant provision of the Control of Narcotic Substances Act, the said quantity prescribes a sentence of Imprisonment extend to three years but shall not be less than two 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 the learned counsel for the parties at length and have examined the record with their able assistance.

6. On tentative assessment of the available material, it is evident that all the prosecution witnesses are police officials, and no independent witness from the locality has been associated, despite the place of arrest being a thickly populated residential area. Though in the present case the Police Officials captured the video and photographs, however, the offence for which Petitioner is allegedly involved carried punishment from two to three years. It is settled law that for deciding the bail Petitions the lesser sentence is to be considered which in the present case is two years and the same does not fall within the prohibitory clause. It is also settled law that in the cases fallen within the prohibitory clause the bail is right and refusal is an exception.

7. In view of the above discussion and the legal principles laid down in the aforementioned precedent, we are of the considered view that the petitioner has made out a case for grant of post-arrest bail. Consequently, this petition is allowed and the petitioner is admitted to post-arrest bail subject to furnishing solvent surety in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** and a personal bond in the like amount to the satisfaction of the Nazir of this

Court. The petitioner shall ensure his presence before the trial Court on each and every date of hearing without fail.

8. It is clarified that the observations made herein are tentative in nature and shall not influence the trial Court, which shall decide the matter strictly on merits.

9. The instant petition stands *disposed of* in the above terms.

JUDGE

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