

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
C.P No. D-2273 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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- Hearing
1. For order on office objections.
 2. For hearing of main case.

14.07.2025

Mr. Gulsher Baloch, Advocate for the Petitioner.
Mr. Ali Haider Saleem, Addl. P.G. Sindh.
SIP Rahmatullah, P.S. Super Market.

Zulfiqar Ali Sangi, J. – The petitioner, Asad Ali @ Abbas son of Abdul Qadir @ Allah Bux, is nominated in FIR No.173/2025, registered at Police Station, Super Market, District Central Karachi, for the offence punishable under Section 9(1)(3)(a) CNS (Amendment) Act 2024. Through the instant petition, the petitioner seeks post-arrest bail.

2. Briefly stated, the facts of the prosecution case are that ASI Muhammad Tufail along with HC Babar Majeed, PC Arsalan, in Government Mobile SPC-553, were busy in area patrolling for the prevention of crimes, during patrolling, they received spy information that a person at Street Baloch Masjid C-one Area, Liaquatabad, Karachi, is selling charas, on this information they reached there and found a person in suspicious condition who wear a pent shirt, at 0230 hours caught him, who disclosed his name as Asad Ali @ Abbas son of Abdul Qadir @ Allah Bux, due to unavailability of private witness started his personal search then recovered charas from his wearing pent back pocket which is weighing from digital scale and found 50 grams, on further search recovered cash 300 rupees. The accused was arrested and recovered charas was seized and the case was registered according to the law.

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 50 grams of charas 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 Additional Prosecutor General opposes the petition by submitting that the chemical examiner's report confirms the recovered substance to be charas, weighing 50 grams. As per the statutory Table appended to Section 9(1)(3) of the Control of Narcotic Substances Act, 2024, the said quantity falls under clause (a) of the category, which prescribes a minimum sentence of ten (10) months along with fine which may be upto Rs.60,000/- and a maximum of five years imprisonment. It is further submitted that the petitioner was apprehended red-handed and the case against him is cogent and supported by documentary evidence; hence, he does not deserve 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. Moreover, the complainant failed to record any video footage or capture photographs of the alleged search, recovery, or arrest, as emphasized by the Hon'ble Supreme Court in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the Apex Court has held that "*Section 25 of the CNS Act excludes the applicability of Section 103 of the Cr.P.C., 1898; however, there is no justification for the failure of the police or Anti-Narcotics Force to record video footage or capture photographs during search, seizure, or arrest. Article 164 of the Qanun-e-Shahadat Order, 1984, permits the use of modern devices or techniques, and Article 165 overrides any contrary provisions in other laws. The absence of technological evidence often delays trials, leading to multiple bail applications. The use of cameras or mobile phones during such operations can provide corroborative evidence, prevent false accusations, and enhance public confidence in the justice system. Law enforcement*

agencies are urged to adopt such practices to curb the societal menace of narcotics and facilitate effective prosecution.”

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.30,000 /- (Rupees Thirty 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

JUDGE

Nadeem