

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI

C.P No. D-3138 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. Allah Wadhayo Mirani, Advocate for the Petitioners.
Mr. Ali Haider Saleem, Addl. P.G. Sindh.

Zulfiqar Ali Sangi, J. – The petitioners, Muhammad Sultan son of Muhammad Bilal and Mst.Sana w/o.Muhammad Sultan, are nominated in FIR No.330/2025, registered at Police Station, Mubina Town, Karachi, for the offence punishable under Section 9(1)(3)(b) CNS (Amendment) Act 2022. Through the instant petition, the petitioners seek post-arrest bail.

2. Briefly stated, the facts of the prosecution case that with reference to report No.15 of roznamcha aam, P.S. Mubina Town, Karachi, ASI Ghulam Haider along with HC Ghulam Sarwar, PC Hidayatullah, LHC Rozina and D/PC Bhooral Khan, in Police Mobile SPE-654, were busy in area patrolling and checking area of Imam Bargah, during patrolling received spy information through informer that at Taal Street Quaid-e-Azam Colony, Main Road, one lady was standing with intention to supply charas, upon such information of spy informer, reached at the above spot, at Main Road, near Taal Street, Katchi Abadi Quaide Azam Colony, and saw one young boy and one lady both having shopping bag available, as per pointation of spy informer with LHC and subordinates staff came out from police mobile and circled them with the help of LHC Rozina apprehended lady and ASI apprehended boy, at about 1700 hours, who disclosed their names as Muhammad Sultan son of Muhammad Bilal, and Lady Sana Aslam wife of Muhammad Sultan daughter of Muhammad Aslam, and disclosed that they are husband and wife, due to non cooperation of privates witnesses, in presence of subordinate staff as witnesses took their personal search from Muhammad Sultan son of Muhammad Bilal's shopper blue colour, one rod of charas

wrapped with yellow colour tape has been recovered as per further personal search, from right side pocket of wearing qameez, one touch mobile techno and 100/100 notes 10 total one thousand rupees, has been recovered, took the alleged charas rod in police custody, thereafter, took personal search of lady through LHC Rozina, from shopper light green colour on which in English WELCOME THANK YOU, embossed, opened it and checked and recovered one rod of charas wrapped with blue tape, packed has been recovered, took the same in police custody, get weight of the same and from Muhammad Sultan son of Muhammad Bilal recovered charas weighing 700 grams, and from Mst. Sana Aslam wife of Muhammad Sultan daughter of Muhammad Aslam, charas weighing 505 grams as per electronic scale, took the alleged recovered charas in police custody, after informing that the alleged offence falls u/s 9(i)(3)(b) CNS, arrested them accordingly, sealed the alleged recovery separately at the spot, returned to Police Station and registered this case.

3. Learned counsel for the petitioners contends that the petitioners have been falsely implicated in this case and no recovery was affected from them. 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 700 and 505 grams of charas have been foisted upon the petitioners 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 700 and 505 grams. As per the statutory Table appended to Section 9(1)(3)(b) of the Control of Narcotic Substances Act, 2024, which prescribes imprisonment which may extend to nine years but shall not be less than five years along-with fine which may be up to one hundred rupees but not less than sixty thousand rupees. It is further submitted that the petitioners were apprehended red-handed and the case against them is cogent and supported by

documentary evidence; hence, they 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 petitioners have made out a case for grant of post-arrest bail. Consequently, this petition is allowed and the petitioners are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- each (Rupees Fifty Thousand only) and a personal bond in the like amount to the satisfaction of the Nazir of this Court. The petitioners shall ensure their 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