

ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD  
C.P. No.D-850 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.  
For hearing of main case.

07.08.2025

Mr. Manzoor Ali Jessar advocate for petitioner.  
Mr. Muhammad Ismail Bhutto, A.A.G. Sindh.  
Mr. Shahriyar Shar, Special Prosecutor ANF.

**RIAZAT ALI SAHAR, J:-** Learned counsel for the petitioner submits that the instant petition arises from an FIR registered by the Anti-Narcotics Force (ANF), Hyderabad, under the “**Control of Narcotic Substances Act, 1997: (“CNS Act, 1997”)**”. He further contends that, in view of the recently enacted “**Sindh Control of Narcotic Substances (Amendment) Act, 2024**” (Sindh Act No. VIII of 2024), whereby Section 35 of the principal Act has been substituted, the jurisdiction to entertain bail applications now lies exclusively with “**Special Courts**” or “**Competent Courts**” as defined therein. He points out, however, that the said amendment is presently pending assent by the Governor of Sindh and publication in the official Gazette; therefore, the legal position remains unsettled. In support of his contention, learned counsel has referred the judgment passed by this Court in “**C.P. No. D-625 of 2025 (Re: Hafeezullah Lashari v. Province of Sindh and others)**”.

Learned counsel for the petitioner, in view of these legal and constitutional developments, does not press the instant petition and instead seeks liberty to approach the trial Court for appropriate relief. He further prays that the trial Court be directed to entertain and decide the bail application of the petitioner afresh on its own merits, notwithstanding the dismissal of any earlier application and in accordance with the guidelines laid down by this Court in **“Hafeezullah Lashari”** and **“Peer Bux”** cases.

Learned Special Prosecutor ANF, appearing in the matter, confirms that the FIR in question was registered under the **“CNS Act, 1997”** and submits that the jurisdiction of the ANF remains unaffected by the Sindh legislation. He does not oppose the request made by learned counsel for the petitioner. Learned A.A.G. Sindh also does not have objection.

After hearing of learned counsel for the petitioner as well as learned A.A.G. Sindh and Special Prosecutor ANF, we deem appropriate to reproduce paragraph 20 of the judgment passed by this Court in **“C.P. No. D-625 of 2025” (Re: Hafeezullah Lashari v. Province of Sindh and others)**, which addresses the constitutional status of the Sindh legislation vis-à-vis the existing **federal law**, as under:-

“20. Since the Sindh Control of Narcotic Substances Act, 2024, has been enacted by the Provincial Assembly, it is imperative to consider its constitutional status vis-à-vis the existing federal legislation, namely the Control of Narcotic Substances Act, 1997 (as amended Act, 2022), which was enacted by the Majlis-e-Shoora (Parliament). In this regard, Article 143 of

the Constitution of the Islamic Republic of Pakistan, 1973, is relevant and is reproduced below for ready reference:

**“143. Inconsistency between Federal and Provincial Law: If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Majlis-e-Shoora (Parliament) which Majlis-e-Shoora (Parliament) is competent to enact, then the Act of Majlis-e-Shoora (Parliament), whether passed before or after the Act of the Provincial Assembly, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.”**

A bare reading of the aforesaid constitutional provision makes it abundantly clear that in the event of any repugnancy or conflict between a provincial law and a federal law, the federal law shall prevail, and the provincial law, to the extent of the inconsistency, shall be rendered void. Therefore, if any provision of the Sindh Control of Narcotic Substances Act, 2024, is found to be inconsistent with the Control of Narcotic Substances Act, 1997, the latter shall override the former by operation of Article 143 of the Constitution. It is the constitutional mandate that ensures uniformity and supremacy of federal legislation in concurrent matters where both the Parliament and the Provincial Assemblies are competent to legislate. Accordingly, until and unless the field is vacated by the federal legislature or legislative competence is otherwise curtailed, any repugnant provision in the provincial enactment shall not be given effect to. Courts, therefore, must interpret and apply the SCNS Act, 2024, in a manner that avoids or harmonizes any conflict with the federal CNS Act, 1997, and where irreconcilable, must prefer the latter in accordance with the Constitution.”

It is pertinent to underscore that Section 43 of the *Sindh Control of Narcotic Substances Act, 2024* (Sindh Act No. VIII of 2024) expressly provides that the provisions of the said Act shall have effect “notwithstanding anything contained in any other law

for the time being in force.” Furthermore, Section 45(1) thereof purports to repeal the *Control of Narcotic Substances Act, 1997* “to the extent of the Province of Sindh.” Such an overriding clause and repeal provision, when read conjointly, prima facie indicate a legislative intent to displace the operation of the federal law within the territorial limits of Sindh.

However, this Court is constitutionally bound to evaluate such provisions through the prism of Article 143 of the Constitution of the Islamic Republic of Pakistan, 1973. The constitutional scheme unequivocally ordains that where a provincial enactment is repugnant to a federal statute that Parliament is competent to enact, the federal law shall prevail and the provincial law, to the extent of repugnancy, shall be void. In this context, it is well-settled that a provincial legislature lacks the competence to repeal or override a federal statute, save where the federal legislature has expressly vacated the field or ceded its competence in the matter. Accordingly, the repeal clause in Section 45(1) of the SCNS Act, 2024, cannot be construed to have validly nullified the CNS Act, 1997, within Sindh in derogation of Article 143.

The harmonious construction of the two enactments thus necessitates that offences investigated by the provincial police under the Sindh Act, 2024, must be registered and tried in accordance with the procedural framework and Special Courts contemplated therein. Conversely, where the investigation is undertaken by a federal agency such as the Anti-Narcotics Force, the applicable law remains the **CNS Act, 1997 (as amended by**

**Act X of 2022**), and such cases shall proceed before the ordinary Courts of Sessions in terms of the federal statute and the Code of Criminal Procedure, 1898. This dual-track approach not only honours the constitutional mandate of federal supremacy but also allows the provincial legislation to operate within its legitimate and constitutionally permissible domain.

In view of the foregoing discussion and the constitutional principles delineated hereinabove, the impugned order of the learned trial Court cannot be sustained and is accordingly set aside. The matter is remanded to the learned trial Court with a direction to entertain and decide the bail application of the petitioner strictly in accordance with law, on its own merits, and without being influenced by any earlier observations or orders. The learned trial Court shall ensure that the application is adjudicated expeditiously, keeping in view the concurrent applicability of the federal *Control of Narcotic Substances Act, 1997* (as amendment by **Act X of 2022**) and the provincial *Sindh Control of Narcotic Substances Act, 2024*, as interpreted in this judgment, and in harmony with the authoritative pronouncements of this Court in *Hafeezullah Lashari* and *Peer Bux* cases (Supra).

In respectful consideration of the record, it is observed that the decision rendered in **Criminal Bail Application No. 1004 of 2025 [Javaid v. The State]** emanated from a learned Single Bench of this court, whereas the instant matter is being examined by a Division Bench. The constitutional and statutory principles enunciated in the latter capacity necessarily take precedence,

particularly where the adjudication involves a broader constitutional and legislative interplay between federal and provincial statutes. It is, therefore, respectfully noted that the directions contained in ***Criminal Bail Application No. 1004 of 2025*** do not stand operative in the present field and must yield to the authoritative pronouncement of this Bench.

It is further observed that the subject-matter engages two co-existing statutory regimes: the *Control of Narcotic Substances Act, 1997* (a federal enactment) and the *Sindh Control of Narcotic Substances Act, 2024* (a provincial statute). In the absence of any legislative displacement by Parliament and keeping in view Article 143 of the Constitution, both enactments are to be applied concurrently within their respective constitutional domains. Thus, FIRs registered under the *CNS Act, 1997 (as amended by Act X of 2022)*, being a federal statute, shall be tried by the ordinary Courts of Sessions having jurisdiction under the Code of Criminal Procedure, 1898, whereas FIRs lodged under the provisions of the *SCNS Act, 2024*, being a provincial enactment, shall be tried before the Special Courts thereunder or Competent Courts under Section 2 (qq) of SCNSA 2024 under the Guidance provided in ***Peer Bux*** and ***Hafeezullah*** cases (Supra).

Such concurrent application not only upholds the constitutional mandate of federal supremacy in the event of repugnancy but also ensures the harmonious operation of provincial legislation within its legitimate sphere. This approach fosters judicial coherence, preserves legislative intent, and safeguards the

procedural and substantive rights of accused persons in strict conformity with the governing statutory frameworks.

It is further observed that, in light of the legal position elaborated hereinabove and the constitutional implications discussed in **paragraph 20 of the “Hafeezullah Lashari”** judgment, the impugned order passed by the learned trial Court shall be deemed without legal effect and does not come in the way before learned trial Court while deciding the bail application, if filed, afresh.

***Let the Copy of this judgment be circulated to all learned District and Session Judges through learned Registrar of this Court and Regional Director, Anti-Narcotics Force, Sindh, Karachi.***

JUDGE

JUDGE

**\*Abdullah Channa/PS\***

Approved for Reporting.