

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
**Cr. Bail Appl. No.1191 of 2025**  
*(Shahid Khan vs. The State)*

**02.06.2025.**

Mr. Muhammad Haseeb Jamali a/w Raja Anwar advocate for applicant  
M/s. Mohsin Iqbal and Sarfraz Ali Mangi, Special Prosecutor, ANF

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** This is a second bail application filed for post-arrest bail by applicant. His earlier application (Cr. B.A. No.2382/2024) for the same relief was dismissed vide order dated 02.12.2024 with directions to the trial Court to examine material witnesses within a period of 04 months. After that period in any event, whether the witnesses were examined or not, applicant was given a choice to file a fresh application for post arrest bail before the trial Court. It is in such context, the applicant has landed before this Court after failing to get relief from the trial Court.

2. As per brief facts, on 31.05.2022 at about 2200 hours, on spy information, ANF team, headed by Inspector, Nisar Ahmed of Police Station ANF Clifton, Karachi, reached SAPT Port, Karachi, and on examination of a Container No.XYLU-1063479, recovered 145 kgs. of ketamine, which was concealed in the fabric rolls. From analysis of documents, it transpired that Dynamic Enterprises owned by applicant Naimatullah Khan was trying to export the said shipment to Josseca Locus Advents Fabric, Hong Kong. Applicant Naimatullah Khan, who was present at the spot, was arrested along-with a co-accused. The recovered contraband stuff was taken into possession and brought at the Police Station along with both the accused, where FIR was registered. Subsequently, it transpired that owner of the said shipment was applicant Shahid Khan. As he could not be arrested, in his absence the Challan was submitted in the Court.

3. Learned defence counsel has mainly argued that the witnesses in evidence have not implicated the applicant; that co-accused Noman Jillani, having been assigned the same role has been granted bail by the trial Court, hence, applicant is entitled to the same relief. He in order to support his pleas has referred to cross examination of the witnesses including of Investigating Officers (**IOs**) and has urged that theses witnesses since have not brought up any evidence against applicant he is entitled to bail. He has further stated that tentative assessment of material is not barred at bail stage and when there is no direct evidence against an accused, he can be granted bail. According to him, benefit of doubt can be extended to the accused even at the stage of bail and law does not stop the Court from forming an opinion in favour of accused in such event. In support of arguments, he has relied upon the case laws reported in **2001 SCMR 14, 2016 SCMR 18, 2015 YLR 1746, 1999 SCMR 1271, 2024 SCMR 476, 2022 P Cr. LJ 1466, 2013 SCMR 669, 2022 YLR 366, 2021 MLD 1674, 2017 SCMR 2060, 2024 SCMR 1210, 2023 SCMR 1140, 2021 SCMR 1909, and PLD 1995 SC 34.**

4. On the other hand, learned Special Prosecutor, ANF and has opposed bail stating that all the witnesses have been examined and they *prima facie* have implicated the applicant, except the one witness, who is a driver of vehicle and his evidence is likely to be recorded on 05<sup>th</sup> of this month when the case is fixed before the trial Court, hence, directions be issued to the trial Court to conclude the case within a short period. Learned Special Prosecutor, ANF has relied upon the case laws reported in **2016 MLD 857, 2002 SCMR 1381** and **2016 SCMR 2094**.

5. I have considered submissions of the parties, perused material and taken guidance from the case law. At the time when first bail application of the applicant was dismissed, only a partial evidence of one witness was recorded. During the interim period, almost all the witnesses have been examined except one formal witness whose evidence is likely to be recorded on 05<sup>th</sup> of this month when the trial is fixed before the trial Court. The reference of learned defence counsel to cross examination of witness in order to establish his ground of insufficient evidence against the applicant is hardly relevant as it is settled that for deciding a bail application only tentative assessment of the material is to be made. If the revelations in cross examination and their impact are taken into account to decide a bail application, it will amount to deeper appreciation of evidence and forming a final opinion, after which nothing would be left for the trial Court to decide in final judgment.

6. While dismissing bail application of co-accused, Naimatullah Khan (Cr. BA No.1039/2025) on 19.05.2025, I had already directed to the trial Court to conclude the trial within a period of two months. On that day, it was reported that only two witnesses were remaining. From the arguments of learned Special Prosecutor, ANF today, it appears that now only one witness remains to be examined by the prosecution.

7. In view of such peculiar facts, I repeat the same directions to the trial Court and urge it to abide by the same in letter and spirit and submit the compliance report after two months of 19.05.2025 through MIT-II of this Court.

Needless to mention that observations made hereinabove are tentative in nature and would not be prejudice case of either party at trial. The bail application is disposed of in the above terms.

**J U D G E**