

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. D-85 of 2025

**Before:**

***Mr. Justice Amjad Ali Bohio, J.***

***Mr. Justice Khalid Hussain Shahani, J.***

Applicant : Waqar @ Vicky son of Ashique Ali, Pechuho  
Through Mr. Ali Gul Abbasi, advocate

The State : Through Syed Sardar Ali Shah, Addl. P.G

Date of hearing : 22.10.2025  
Date of order : 04.11.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** –Applicant Waqar @ Vicky Pechuho, seeks post-arrest bail in a case bearing crime No.252/2025, for offences punishable under Sections 9(2)4, 9(2)5, and 9(1)6-B of the Sindh Control of Narcotic Substances Act, 2024 (hereinafter referred to as "SCNS Act 2024") registered at Police Station Moro, District Naushahro Feroze. His earlier bail application was declined by the learned Sessions Judge/Special Judge for CNS, Naushahro Feroze vide order dated 26.09.2025.

2. The brief facts of the prosecution case, as unfolded in the FIR lodged by complainant Sub-Inspector Jan Muhammad Umrani of CIA Naushahro Feroze on 02.08.2025 at about 2230 hours, are that on 02.08.2025, the complainant along with his subordinate staff, whilst patrol, under the directives of high ups started snap checking at Garden town Moro. At about 2100 hours, found a car attempted to turn back upon seeing the police party in uniform. The police party immediately stopped the said vehicle and found three persons inside: one driving, one on the front seat, and one on the back seat. Upon inquiry, the occupants disclosed their names as Waqar @ Vicky son of Ashique Ali by caste Pechuho; Ashique Ali son of Faiz Muhammad Magsi; and Roshan son of Muhammad Khan Machi. The complainant states that due to the unavailability of private mashirs, PC Riaz Hussain Rajper and PC Naqeebullah

Solangi were nominated as mashirs. The prosecution alleges that upon conducting a body search of the applicant Waqar @ Vicky, one plastic shopper was recovered from his fold containing ice (methamphetamine) weighing 900 grams and heroin weighing 150 grams, along with cash of Rs.1,500/- from the left side of his shirt and one Oppo mobile phone. Similarly, from co-accused Ashique Ali, 500 grams of ice, cash of Rs.1,100/-, and one keypad mobile phone were allegedly recovered. From co-accused Roshan Ali Machi, 500 grams of ice and cash of Rs.1,000/- were allegedly recovered. The vehicle, a white Alto VXR bearing registration No.BVK-914, Engine No.201379, Model 2025, was also seized. The contraband was weighed, sealed, samples of 50 grams each were separated, and memos of arrest and recovery were prepared at the spot. Thereafter, the arrested accused persons along with the recovered property were brought to the police station where the FIR was lodged. Following registration of the FIR, investigation was initiated, and the applicant was produced before the concerned Judicial Magistrate for remand. After completion of remand, the applicant filed a post-arrest bail application before the learned Sessions Judge/Special Judge for CNS, Naushahro Feroze, which was dismissed vide order dated 26.09.2025. Notably, co-accused Ashique Ali Magsi and Roshan Ali Machi were granted post-arrest bail by the same competent court vide orders dated 27.08.2025 and 01.09.2025 respectively. Presently, the applicant is confined at District Jail, Naushahro Feroze.

3. Mr. Abbasi, learned counsel for the applicant has vehemently contended that the applicant has been falsely implicated in this case due to malice and ulterior motives. He submits that the alleged narcotics have been foisted upon the applicant and that no genuine incident occurred at the place of occurrence as mentioned in the FIR. He argues that the present case is the result of a malafide campaign initiated by the police under the pretext of a narcotics drive, allegedly on the directions of their superior officers, wherein CIA police

have been indiscriminately targeting innocent, poor, and helpless persons by unlawfully arresting them from various places and foisting case property upon them to project false efficiency. He asserts that the applicant was neither arrested from the alleged place of incident as mentioned in the FIR, nor was any incriminating material genuinely recovered from his possession. Learned counsel submits that the applicant along with the co-accused were returning from Hyderabad and reached Moro for taking dinner when the police party inquired about the vehicle documents. Upon production of the documents, the police party allegedly demanded illegal gratification (locally known as "kharchi"), which the applicant and co-accused refused to pay. This refusal, according to learned counsel, angered the police party and resulted in false implication in the present case. He emphasizes that the non-association of private persons to effect recovery proceedings demonstrates clear malafide on the part of the police and establishes that neither was the applicant arrested from the alleged place of incident, nor was any property recovered from his possession. Learned counsel draws the attention of this Court to several critical procedural infirmities in the prosecution case. He submits that the FIR does not disclose adequate description of the allegedly recovered narcotics, including the measurement and weight of each item purportedly recovered from the possession of the accused. More significantly, he points out that the complainant has miserably failed to record any video or photographic evidence of the alleged incident, despite the fact that nowadays everyone possesses modern gadgets and could easily record video footage of the entire proceedings of search and recovery.

4. In support of his submissions, learned counsel places strong reliance on the landmark judgment of the Supreme Court of Pakistan in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the august apex court held that in order to make the recovery process credible, investigating

agencies must preserve the entire proceedings through video recording. He submits that this judgment was circulated throughout the country to concerned agencies and heads of departments, thereby making video recording compulsory in narcotics cases. He further relies upon the recent judgment of the Supreme Court of Pakistan in *Muhammad Abid Hussain v. The State* (2025 SCMR 721), wherein the Honorable Supreme Court has strongly emphasized that photography and videography of the recovery process in narcotics cases is not optional but mandatory, given the severe punishments under the Control of Narcotic Substances Act. The Court held that when police fail to preserve the proceedings of search and recovery through video recording, the credibility of the prosecution case becomes highly suspicious. Learned counsel submits that there is a clear violation of Section 17(2) of the SCNS Act 2024, which explicitly states that video recording of all raids, seizure, inspections, and arrests shall be made by the officer in charge of such operations. He argues that in the absence of video evidence and independent witnesses, the prosecution's case relies solely on the testimony of police officers involved in the alleged raid, which is insufficient to meet the required standards of proof, particularly in cases involving stringent punishment. Learned counsel further submits that the co-accused Ashique Ali Magsi and Roshan Ali Machi have already been granted post-arrest bail by the competent court vide orders dated 27.08.2025 and 01.09.2025 respectively. He contends that the rule of consistency must be applied, and the present applicant is entitled to the same treatment as accorded to his co-accused, particularly when all three accused were arrested simultaneously from the same vehicle under identical circumstances. Learned counsel emphasizes that the place of incident is a busy location being a roundabout operational throughout the clock where numerous vehicles pass through, yet the complainant neither made any effort for association of private mashirs in compliance with Section 103 Cr.P.C. nor

mentioned this in the contents of the FIR. He submits that it is well-settled proposition of law that the accused is entitled to the concession of bail even if the offence falls within the prohibitory clause, provided his case comes within the purview of further inquiry, and the benefit of doubt can be extended in favor of the accused even at the bail stage. Learned counsel submits that as per the contents of the FIR, the police only sent 50 grams from each recovered narcotic allegedly recovered from the applicant/accused, but as per law, police were obligated to send the entire quantity of narcotics for chemical analysis. He argues that the witnesses are interested parties being subordinates of the complainant, and there is no likelihood of tampering with their evidence. He further submits that bail could not be withheld as punishment, and it is a golden principle of law that every undertrial person is always presumed to be innocent until conviction is recorded by the competent court of law. Even a single day of detention of an innocent accused cannot be compensated after his acquittal at the conclusion of the case. Learned counsel prays that in view of the above submissions and considering the glaring procedural lapses, the applicant may graciously be admitted to post-arrest bail, as his case falls squarely within the ambit of further inquiry.

5. Learned Additional Prosecutor General, Syed Sardar Ali Shah, appearing on behalf of the State, has vehemently opposed the grant of bail to the applicant. He submits that narcotics offences are heinous crimes against society which have been deteriorating the social fabric day by day and deserve no leniency. He contends that the applicant was arrested red-handed in possession of substantial quantities of contraband, specifically 900 grams of ice (methamphetamine) and 150 grams of heroin, which are dangerous psychotropic substances and narcotic drugs respectively. Learned APG submits that the offence under Section 9(2)5 and Section 9(1)6-B of the SCNS Act 2024 are punishable up to seven and ten years respectively, but not less than five and

seven years respectively, besides fine, and therefore fall within the prohibition mentioned under Section 35(1) of the Sindh Control of Narcotic Substances (Amendment) Act, 2025. He argues that the quantities recovered from the applicant are substantial and demonstrate his active involvement in the illegal trade of narcotics, which poses a grave threat to society, particularly to the youth.

6. Learned Addl. P.G distinguishes the case of the co-accused by submitting that the quantity of contraband shown to have been recovered from the possession of co-accused Ashique Ali Magsi and Roshan Ali Machi was significantly less than the quantity recovered from the present applicant, and therefore the rule of consistency does not apply. He submits that each case must be decided on its own merits and peculiar facts and circumstances. Learned Addl. P.G further submits that the applicant was arrested during routine checking, and therefore the applicability of subsection (2) of Section 17 of the Act requiring video recording is out of scope. He argues that Section 103 Cr.P.C. is inapplicable in view of Section 20 of the SCNS Act 2024, which excludes the requirement of association of private witnesses in narcotics cases. He contends that no sort of enmity has been claimed by the accused against the complainant for false implication, and the prosecution case is supported by credible evidence. Learned Addl. P.G prays that in view of the gravity of the offence, the substantial quantity of contraband involved, and the serious threat posed to society, the present bail application may be dismissed.

7. Having heard the learned counsel for the applicant and learned Additional Prosecutor General for the State at considerable length, and having examined the available record with their able assistance, and having carefully considered the relevant case law, particularly the recent pronouncements of the Honorable Supreme Court of Pakistan, this Court proceeds to deliberate upon the merits of the present application.

8. At the outset, this Court deems it appropriate to observe that while narcotics-related offences are undoubtedly serious crimes that pose a grave threat to the social fabric and moral fiber of society, and while the fight against the menace of drug trafficking deserves unqualified recognition and vigorous prosecution, it is of equal, if not greater, importance that the inviolable rights of the accused are scrupulously protected and that investigations and prosecutions are conducted in strict accordance with the established legal procedures and constitutional safeguards. The severity of punishment prescribed for an offence necessitates an equally stringent standard of proof and procedural compliance to ensure that innocent persons are not falsely implicated and unjustly incarcerated.

9. It is a well-established principle of criminal jurisprudence that at the bail stage, the court is not required to conduct a mini-trial or meticulously weigh the evidence as if adjudicating the guilt or innocence of the accused. The function of the court at this preliminary stage is to prima facie evaluate whether the case requires further inquiry, whether reasonable grounds exist to believe that the accused may not have committed the offence, and whether the prosecution case suffers from material contradictions or procedural infirmities that cast serious doubt on its veracity. Bail is the rule and jail is the exception. The object of bail is to secure the attendance of the accused at trial while preserving the presumption of innocence. Even a single day's detention of an innocent person is an injustice that cannot be adequately compensated, even if such person is ultimately acquitted. Reliance in this regard is placed on the observations of the Honorable Supreme Court in *Manzoor v. The State* (PLD 1972 SC 81), wherein it was held that the ultimate incarceration of a guilty person could repair the wrong caused by mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case, albeit his acquittal in the long run.

10. A careful perusal of the FIR, the grounds raised in the bail application, and the impugned order of the learned trial court reveals several disturbing procedural lapses and infirmities in the prosecution case that merit serious consideration.

11. First and foremost, it is an admitted and undisputed fact that no video recording or photographic evidence of the alleged recovery proceedings was made or preserved by the investigating agency. This is a critical deficiency that goes to the heart of the credibility and reliability of the prosecution case. The Honorable Supreme Court of Pakistan in the landmark judgment of *Muhammad Abid Hussain v. The State* (2025 SCMR 721) has categorically and unequivocally held that the Control of Narcotic Substances Act, 1997 prescribes severe punishments for the possession and sale of narcotic substances, and given the gravity of the penalties, the standard of proof required to establish guilt must be correspondingly high. The prosecution must demonstrate beyond reasonable doubt that the accused was in possession of the narcotic substance and that it was intended for sale.

12. The Supreme Court in the aforementioned judgment emphasized that Article 164 of the *Qanun-e-Shahadat Order*, 1984 expressly recognizes the importance of modern devices and techniques in the collection of evidence and provides that evidence obtained through modern devices, such as video recordings, should be given due weight in judicial proceedings. This provision underscores the imperative need for law enforcement agencies to adopt contemporary methods to ensure the accuracy and reliability of evidence. The Court observed with concern that in the case before it, neither any video recording nor photographs of the alleged recovery were collected by the police, nor was any private witness from the locality associated to prove the alleged recovery from the possession of the accused.



13. Most significantly, the Supreme Court held that the use of modern devices during recoveries is not merely a procedural formality but a crucial safeguard to protect innocent persons from potential police atrocities. It provides an objective and unbiased account of the recovery process, reducing the risk of false implications and ensuring that the rights of the accused are protected. In cases involving stringent punishments, the prosecution must present clear, cogent, and reliable evidence to prove the guilt of the accused beyond reasonable doubt. In the instant case, the admitted position is that the complainant and his team completely failed to record the proceedings through video or photography despite the ready availability of such technology. The Supreme Court's directive in *Muhammad Abid Hussain* (supra) is not merely a suggestion but has attained the status of a binding precedent requiring mandatory compliance. The failure to utilize modern recording devices, particularly in an era where such technology is ubiquitously available, raises serious questions about the transparency and credibility of the alleged recovery. Similarly, in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), the Honorable Supreme Court granted bail to the petitioner due to the absence of video evidence and lack of independent witnesses during the narcotics seizure. The Court expressed bewilderment as to why the police and the Anti-Narcotics Force personnel do not use video or photographic documentation during searches and seizures, particularly when Article 164 of the *Qanun-e-Shahadat Order*, 1984 renders evidence obtained through modern techniques admissible in courts. The Court held that the facts and circumstances of the case made it a case of further inquiry, and accordingly granted bail. This Court is constrained to observe that the investigating agency in the present case has shown complete disregard for these authoritative pronouncements of the apex court. The investigating officer, despite having ample time and resources, failed to record any video or photographic evidence of the alleged recovery. This omission is

particularly significant given that the alleged recovery took place at Garden Town Moro on the Dadu Link Road, which is admittedly a busy, populated area with commercial activity. The failure to document the proceedings through modern devices seriously undermines the credibility of the prosecution case and gives rise to a reasonable apprehension that the alleged recovery may not have occurred in the manner described in the FIR.

14. The second major procedural infirmity relates to the non-association of independent, neutral witnesses during the alleged recovery proceedings. It is the admitted case of the prosecution that the alleged recovery took place at Garden Town Moro near the Dadu Link Road at about 2100 hours (9:00 PM). While Section 20 of the SCNS Act 2024 excludes the applicability of Section 103 Cr.P.C. (which mandates the association of respectable inhabitants of the locality as witnesses), this exclusion does not absolve the investigating agency from ensuring transparency and credibility in recovery proceedings through the association of independent witnesses wherever feasible. The FIR itself admits that due to "unavailability of private mashirs," two police constables, namely PC Riaz Hussain Rajper and PC Naqeebullah Solangi, were nominated as mashirs. However, no explanation has been provided as to why private witnesses were unavailable at 9:00 PM on a main road near Garden Town Moro, which is a busy commercial area. The prosecution has failed to demonstrate that any genuine effort was made to secure the presence of independent witnesses. The reliance solely on police officials as witnesses, who are subordinates of the complainant and interested parties, significantly diminishes the credibility of the prosecution case, particularly in the absence of video or photographic corroboration. It is a well-settled principle of law that where the prosecution case rests entirely on the testimony of police officials without corroboration by independent witnesses or electronic evidence, the benefit of doubt must be extended to the accused,

particularly at the bail stage. In the case of *Muhammad Arshad v. The State* (2022 SCMR 1555), the Honorable Supreme Court held that where the prosecution's case hinges entirely on police testimony, uncorroborated by natural witnesses, the benefit of doubt is to be extended at the bail stage.

15. Section 17(2) of the Sindh Control of Narcotic Substances Act, 2024 explicitly provides that "video recording of all raids, seizure, inspections and arrests shall be made by the officer in-charge of such operations." The plain language of this provision makes it abundantly clear that video recording is mandatory in cases involving raids, seizures, inspections, and arrests under the Act. The learned Addl. P.G has attempted to circumvent this mandatory requirement by arguing that the applicability of Section 17(2) is limited to planned "operations" and does not extend to routine checking. While this Court acknowledges that there may be a distinction between a planned raid based on prior information and a spontaneous arrest during routine patrolling, such distinction cannot be stretched to the extent of completely exempting investigating agencies from the requirement of video recording. The purpose of Section 17(2) is to ensure transparency, accountability, and protection of the rights of accused persons through objective electronic documentation. This purpose is equally compelling whether the arrest occurs during a planned operation or during routine checking. Moreover, even if one were to accept the argument that Section 17(2) does not apply to routine checking, the investigating agency was not precluded from voluntarily recording the proceedings through video or photography. As held by the Supreme Court in *Muhammad Abid Hussain* (supra), Article 164 of the *Qanun-e-Shahadat* Order, 1984 encourages and permits the use of modern devices for evidence collection, and such evidence carries significant probative value. The failure to utilize such readily available technology, particularly when serious allegations are being made and substantial quantities of contraband are allegedly being recovered,

raises legitimate concerns about the authenticity and credibility of the alleged recovery.

16. Another significant aspect that merits consideration is the question of safe custody and safe transmission of the allegedly recovered narcotics. The Honorable Supreme Court of Pakistan in the case of *Jeehand v. The State* (2025 SCMR 923) has emphatically held that safe custody and safe transmission of alleged drugs from the spot of recovery till their receipt by the Narcotic Testing Laboratory must be satisfactorily established. The Police Rules mandate that case property be kept in the Malkhana and that the entry thereof be recorded in Register No. XIX of the said police station. It is the duty of the police and prosecution to establish that the case property was kept in safe custody, and if it was required to be sent to any laboratory for analysis, to further establish its safe transmission and that the same was also recorded in the relevant registers, including road certificates. The Court in *Jeehand* (supra) observed that documentary proof of safe custody and transmission of case property is mandatory, and oral testimony without production of Register No. XIX or road certificates is inadmissible under Article 102 of the *Qanun-e-Shahadat* Order, 1984. The Court further held that failure to establish safe custody and safe transmission makes the report of the chemical examiner unsafe and unreliable for justifying conviction of the accused. The Supreme Court in the case of *Mst. Sakina Ramzan v. The State* (2021 SCMR 451) expounded the concept of chain of custody in great detail. The Court held that the chain of custody or safe custody and safe transmission of narcotic drugs begins with seizure of the narcotic drug by the law enforcement officer, followed by separation of the representative samples of the seized narcotic drug, storage of the representative samples and the narcotic drug with the law enforcement agency, and then dispatch of the representative samples to the office of the chemical examiner for examination and testing. This chain of custody must be safe and secure

because the report of the chemical examiner enjoys critical importance under the Control of Narcotic Substances Act, and the chain of custody ensures that correct representative samples reach the office of the chemical examiner. Any break or gap in the chain of custody, i.e., in the safe custody or safe transmission of the narcotic drug or its representative samples, makes the report of the chemical examiner unsafe and unreliable for justifying conviction of the accused.

17. In the present case, there is no indication on record that the prosecution has established or can establish the safe custody and safe transmission of the allegedly recovered contraband through documentary evidence such as Register No. XIX entries, road certificates, or other contemporaneous records. The question of whether the chain of custody has been properly maintained will inevitably arise during trial and will require careful scrutiny and proof. At this stage, the absence of such documentation creates reasonable doubt about the integrity of the case property and the reliability of any future chemical examination report. Section 497(2) Cr.P.C. provides that bail may be granted if there appear to be reasonable grounds for believing that the accused is not guilty of the offence or that the case requires further inquiry. The concept of "further inquiry" is well-established in our jurisprudence and has been consistently interpreted to mean that where the prosecution case suffers from material contradictions, procedural irregularities, or other infirmities that cast doubt on the veracity of the allegations, the accused is entitled to bail pending trial.

18. In the present case, multiple factors cumulatively establish that this is a classic case requiring further inquiry:

- i) *The complete absence of video or photographic evidence of the alleged recovery despite the ready availability of such technology and the mandatory requirement under recent Supreme Court judgments.*

- ii) *The non-association of independent witnesses from what is admittedly a busy, populated commercial area, coupled with the sole reliance on police officials as witnesses who are subordinates of the complainant and interested parties.*
- iii) *The alleged demand for illegal gratification (kharchi) and the false implication following refusal to pay, as asserted by the applicant, which raises questions about the motive behind the arrest and registration of the case.*
- iv) *The lack of documentary evidence establishing safe custody and safe transmission of the allegedly recovered contraband, which is a mandatory requirement under the law as expounded by the Supreme Court in Jeehand (supra).*
- v) *The fact that only 50 grams sample from each type of narcotic was sent for chemical analysis, whereas according to proper procedure, the entire quantity should have been sent to ensure accuracy and prevent any possibility of substitution or tampering.*
- vi) *The vague description in the FIR regarding the measurement and weight of each piece of alleged contraband, which is a significant omission particularly when substantial quantities are involved.*

19. These cumulative infirmities and procedural lapses raise serious doubts about the authenticity and credibility of the prosecution case and establish that the matter requires further inquiry through a full trial. The principles laid down in *Muhammad Abid Hussain v. The State* (2025 SCMR 721) and *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934) are squarely applicable to the facts of the present case.

20. Learned counsel for the applicant has also raised the plea of consistency, submitting that co-accused Ashique Ali Magsi and Roshan Ali Machi have already been granted bail by the competent court vide orders dated 27.08.2025 and 01.09.2025 respectively. The learned APG has sought to distinguish the co-accused on the ground that lesser quantities of contraband were allegedly recovered from them. We have extended careful consideration to this aspect. While it is true that different quantities of contraband were allegedly recovered from different accused, the fact remains that all three accused were arrested simultaneously from the same vehicle under identical circumstances. The FIR alleges that they were traveling together and were arrested during the same snap checking operation. The procedural infirmities

highlighted above namely, the absence of video recording, non-association of independent witnesses, and questions regarding safe custody apply equally to all three accused persons. While the principle of consistency is not an absolute rule and each case must be decided on its own facts and merits, it is nevertheless a relevant consideration, particularly when co-accused are arrested under substantially similar circumstances and their cases involve the same factual matrix and procedural irregularities. The Supreme Court of Pakistan has consistently held that where co-accused are similarly situated and their cases present comparable facts, the principle of consistency should generally be applied to avoid discriminatory treatment. In the present case, while the quantity allegedly recovered from the applicant is greater than that recovered from the co-accused, this difference alone does not justify disparate treatment, particularly when the procedural lapses affecting the credibility of the prosecution case are common to all three accused.

21. This Court is acutely conscious of the grave threat posed by the proliferation of narcotics to the health, welfare, and moral fabric of society. The scourge of drug addiction has devastated countless families and communities, and the State's resolute endeavor to eliminate this menace warrants unqualified support. However, the fight against narcotics must be conducted within the framework of law and in accordance with constitutional safeguards and principles of due process. The ends, however laudable, cannot justify means that trample upon fundamental rights or disregard mandatory legal procedures. The presumption of innocence is a cornerstone of our criminal justice system and a fundamental right guaranteed under Article 4 and Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. This presumption remains intact until guilt is established through a fair trial conducted in accordance with law. The liberty of an individual is a precious right that cannot be curtailed except through due process of law. As observed by the Supreme

Court in *Muhammad Abid Hussain* (supra), the ultimate incarceration of a guilty person could repair the wrong caused by mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case, albeit his acquittal in the long run.

22. In the present case, the multiple procedural lapses and infirmities discussed above create reasonable doubt about the veracity of the prosecution case. The failure to record video or photographic evidence despite mandatory requirements and authoritative judicial pronouncements, the non-association of independent witnesses from a populated area, the questions regarding safe custody and transmission, and the grant of bail to co-accused under similar circumstances, cumulatively establish that this is a fit case for grant of bail pending trial. The applicant's continued incarceration under these circumstances would amount to pre-trial punishment, which is impermissible under our legal system.

23. For the reasons elaborated above, and in view of the authoritative pronouncements of the Honorable Supreme Court of Pakistan in *Muhammad Abid Hussain v. The State* (2025 SCMR 721), *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), and *Jeehand v. The State* (2025 SCMR 923), we are of the considered view that the prosecution case against the applicant suffers from serious procedural infirmities and irregularities that cast reasonable doubt on its credibility and veracity. The complete absence of video or photographic evidence in contravention of mandatory legal requirements, the non-association of independent witnesses, the lack of proper documentation regarding safe custody and transmission of case property, and the grant of bail to co-accused under substantially similar circumstances, establish that the present case falls squarely within the ambit of "further inquiry" as contemplated under Section 497(2) Cr.P.C. It is pertinent to observe that this Court, while granting bail, has



not expressed any final opinion on the merits of the prosecution case. The observations made herein are tentative and for the limited purpose of deciding the bail application. The learned trial court will examine and appreciate the evidence in accordance with law, uninfluenced by any observations made in this order.

24. Consequently, this Criminal Bail Application is allowed. The applicant Waqar @ Vicky son of Ashique Ali Pechuho is admitted to post-arrest bail subject to his furnishing bail bonds in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) with solvent surety in the like amount to the satisfaction of the learned trial court. It is made clear that if at any stage it transpires that the applicant has misused the concession of bail or has violated any of the conditions imposed herein, the learned trial court shall be at liberty to cancel the bail and commit the applicant to prison.

25. It is further clarified that the observations made in this order are tentative in nature and are solely for the purpose of deciding the instant bail application. The learned trial court shall decide the case on its own merits, uninfluenced by any observations made herein.

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