

**THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 425 of 2025

Applicant : Ali Hyder @ Ali  
through Mr. Waqar Ali Baloch,  
advocate.

Respondent : The State  
Mr. Muhammad Raza,  
Deputy Prosecutor General  
a/w S.I. Abdul Aziz, I.O.

Date of short order : 11<sup>th</sup> March, 2025

Date of reasons : 17<sup>th</sup> March, 2025

**ORDER**

**Jan Ali Junejo, J.--** The present Criminal Bail Application has been filed on behalf of the Applicant/Accused, who is seeking post-arrest bail in connection with a case stemming from FIR No.357 of 2024, registered at P.S. Pak Colony, Karachi, under Section 6/9(2)(3), of the Control of Narcotic Substances Act, 1997 (amended in 2022) The Applicant/Accused initially approached the learned Sessions Court by filing Bail Application in Special Case No.454 of 2025, which was subsequently dismissed by the Court of the learned IInd Additional Sessions Judge/Special Judge CNS-II, Karachi-West, vide Order dated 01-02-2025.

2. The facts relevant to the present criminal bail application are as follows:

*“ASI Shafiq Abbasi of P.S. Pak Colony registered an FIR, disclosing that four individuals were apprehended for drug possession with substantial evidence recovered from their clothing. Ali Haider alias Ali Boss, son of Abdul Jaleel, was found carrying 120 small crystal drug*

*(Methamphetamine) packets (58 grams) in his trouser pocket, while Ramzan, son of Musharraf, had 110 similar packets (55 grams) in his pocket. Muhammad Jafar, son of Allah Bakhsh, was caught with a single 1050-gram piece of hashish, wrapped in yellow tape and hidden in his shirt. Salman, son of Shah Munir (deaf-dumb), possessed 70 packets of "Ice" (methamphetamine) (53 grams) in his shirt's inner pocket. The police seized, weighed, and sealed the narcotics as evidence. The accused were charged under sections 6/9-2-3 of the CNS Act 2022 for possessing illegal substances."*

3. The learned counsel for the Applicant has argued that the applicant is innocent and has been falsely implicated by the police to demonstrate efficiency to their superiors, with no reasonable ground to believe that he committed the alleged offense. He further contends that the police initially apprehended the applicant and demanded an illegal bribe, and upon his refusal, registered a false case against him. He argues that the recovery of drugs was planted due to ulterior motives, and no independent witnesses were produced to support the prosecution's case. He asserts that although the FIR alleges drug selling, the police failed to arrest any buyers from the scene and did not provide any video evidence of the recovery. He also contends that the applicant, along with two co-accused, suffered identical gunshot injuries on the same leg, raising serious doubts about the alleged police encounter, especially when no police official or vehicle sustained any damage. He submits that the eight motorcycles seized by the police remain unverified regarding their involvement in any criminal case. He also argues that the source of the spy information was undisclosed in the FIR, and the police failed to arrange private witnesses, making the case highly doubtful. He contends that

all witnesses are police officials, eliminating any risk of tampering with prosecution evidence. He submits that the applicant has already been granted bail in related cases (Bail No. 2720/2024 & 3847/2024) and has no prior convictions. He further asserts that since the applicant is now in judicial custody and is not required for further investigation, his continued detention is unwarranted. He relies upon the principle laid down in Tariq Bashir vs. The State (1995 PLD SC 34), and Samiullah vs. The State (2020 MLD 1466). In light of the above arguments and case laws, he prays that this Honorable Court may be pleased to grant bail to the applicant in the interest of justice.

4. The learned Deputy Prosecutor General (DPG) opposed the bail application and argued that the applicant has been nominated in a serious offense involving narcotics, which carries severe punishment under the CNS Act, 2022. He contends that the quantity of drugs recovered from the applicant and co-accused is substantial, indicating their involvement in drug trafficking, which is a menace to society. He further contends that the FIR was registered promptly, and the recovery of narcotics was duly witnessed and documented, leaving no room for false implication. He argues that the presumption of innocence cannot be stretched in cases of heinous offenses, particularly when sufficient evidence supports the prosecution's case. He asserts that all legal formalities were fulfilled, and the recovered contraband was sealed on the spot and sent for chemical examination, the report of which confirms the presence of narcotic substances. He further submits that the applicant's plea of false implication due to non-payment of a bribe is baseless and an afterthought, unsupported by any credible evidence. He argues that mere non-arrest of buyers does not negate the crime, as the offense is

complete once the accused is found in possession of narcotics. He contends that the alleged police encounter is supported by medical reports, and the injuries sustained by the accused do not discredit the prosecution's version. He further argues that the non-involvement of police officials in injuries or damage to public property does not necessarily make the encounter doubtful, as law enforcement officers are trained to minimize harm to themselves. He submits that the accused is a habitual offender, involved in multiple cases of a similar nature, which establishes his criminal proclivity and makes him a threat to society. Lastly, he prayed that the bail application should be dismissed in the interest of justice.

5. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Deputy Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. A careful examination of the case record reveals that the recovered quantity of crystal drug (Methamphetamine) is only 58 grams, which is below 100 grams and, therefore, does not fall within the prohibitory clause of Section 497(1) of the Cr.P.C. Since the challan has already been submitted, the continued detention of the applicant in jail would serve no beneficial purpose. In Case of *Aya Khan and another v. The State (2020 SCMR 350)*, the Supreme Court of Pakistan held that: *"Without discussing the merits of the case lest it prejudice the case of one or the other side, suffice it to say that in the FIR or in the recovery memo, nowhere it is stated that whether it was net or gross weight of the narcotics and in this eventuality it becomes a border line case between subsections (b) and (c) of section 9, C.N.S.A., 1997. Thus the benefit of doubt in this aspect shall go to the accused"*. In a similar case, *Mst. Nazia and another v. The State (2024 MLD*

843), this Court granted bail to an accused charged with the possession of 4 kilograms of charas, 2.5 kilograms of ice, and 500 grams of heroin powder, highlighting that the case warranted further inquiry. In light of these circumstances, the applicant is entitled to bail based on the provisions of Section 497(2) of the Criminal Procedure Code (Cr.P.C.).

6. For the reasons outlined above, the current bail application submitted on behalf of the applicant/accused is granted as prayed. The applicant/accused is hereby granted bail on the condition that he furnishes a solvent surety of Rs.100,000 (Rupees One Hundred Thousand) to the satisfaction of the learned trial Court, along with a P.R. bond for the same amount. The observations made in this Order are limited to the adjudication of this bail application and will not affect the rights of either party during the trial. These are the reasons for the short Order dated: 11-03-2025.

**JUDGE**