

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.D- 999 of 2025

Date of hearing	Order with signature of Judge
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Before:
Mr. Justice Muhammad Saleem Jessar
Mr. Justice Riazat Ali Sahar

Petitioners : **Qamaruddin Khaskheli and Nasrullah Solangi**
through Mr. Dhan Raj, Advocate.

The Respondents: **The State and Province of Sindh** through M/s
Zulfiqar Ahmed Jatoi, Additional P.G and Zulfiqar Ali
Naich, Assistant A.G.

Date of Hearing : **09-07-2025**
Date of Decision : **09-07-2025**

O R D E R

RIAZAT ALI SAHAR, J. By way of this order petitioners Qamaruddin Khaskheli and Nasrullah Solangi seek their admission on post arrest bail in crime No. 100 of 2025 registered with Police Station Halani, District Naushehro Feroze for offence punishable under section 9 (1) Sr. 3 (A) Sindh Control of Narcotic Substances Act, 2024.

2. Since facts of the prosecution case are already mentioned in the FIR as well as in the memo of petition; therefore, there is no need to reproduce the same. Reliance is placed on the case of **Muhammad Shakeel v. The State & others** (PLD 2014 SC 458).

3. Learned counsel for the petitioners argued that the petitioners are innocent and have nothing to do with the alleged offence and the recovery so far allegedly recovered from their possession has been foisted upon them. He next contended that the recovery so effected from petitioner Qamaruddin Khaskheli is 244 grams of charas while from petitioner Nasrullah Solangi is 230 grams of charas is the meager quantity, besides the punishment so provided for the alleged offence as provided under the Act is the imprisonment which may extend to five years but shall not be less than ten months; hence, he submits that when the statute provides two punishments; then lesser one is to be considered at bail stage. He further argued that by virtue of Section 17(2) of the Act (as amended), the police official was under obligation to

record video of recovery proceedings but he failed. He, therefore, submits that case against the petitioners require further enquiry hence by granting this petition, the petitioners may be directed to be released on bail.

4. Mr. Zulifqar Ali Jatoy, Additional Prosecutor General Sindh and Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh after going through Section 7 of the Act and its provisions submits that petitioners are not previously convict even no CRO has been made available to show any similar case pending against them, therefore, they have no objection for grant of bail.

5. We have heard learned counsel for the petitioners as well as law officers and have gone through the material made available before us on record.

6. Allegedly, the petitioners are nominated in the FIR, and recovery so effected from petitioner Qamaruddin Khaskheli is 244 grams of charas while from petitioner Nasrullah Solangi is 230 grams of charas, which is meager quantity and the punishment provided by law for the said offence is the imprisonment which may extend to five years but it shall not be less than ten months. Hence, the alleged offence with which the petitioners are charged does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, thus making bail the rule and jail the exception.

7. Furthermore, the non-association of private mashirs in such circumstances undermines the credibility of the prosecution case. Additionally, no video recording or photographic evidence of the recovery proceedings has been placed on record, despite the availability of technology and the statutory expectation of transparency under such circumstances. Reliance is placed on the cases of **Muhammad Abid Hussain v. The State** (2025 SCMR 721) and **Zahid Sarfaraz Gill v. The State** (2024 SCMR 934). It is a well-entrenched principle that in cases hinging solely on police testimony, the benefit of doubt must be afforded to the accused, even at the bail stage. Reliance is placed on the case of **Muhammad Arshad v. The State** (2022 SCMR 1555).

8. In the circumstances and in view of above legal as well as factual position of record the petitioners have succeeded to make out a good *prima facie* case for grant of bail. The case of petitioners is purely covered by Section 497(2) Cr.P.C. Accordingly, instant Petition was **allowed** by our short order dated 09.07.2025, whereby the petitioners **Qamaruddin Khaskheli and Nasrullah Solangi** were ordered to be released on bail subject to their furnishing solvent surety in the sum of **Rs.30,000/- (Thirty Thousand)** each and P.R bond in the like amount to the satisfaction of the Civil Judge & Judicial Magistrate-1, Mehrabpur-Naushahro Feroze. These are the reasons in support of our above short order.

9. Needless to mention here that the observations recorded hereinabove are tentative in nature and shall not, in any manner, prejudice or influence the trial Court during the adjudication of the case.

JUDGE

JUDGE

Ahmad/P.S