

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Siyal

Mr. Justice Miran Muhammad Shah

Criminal Bail Application No.1690 of 2025

Applicant : Shah Nawaz S/o Iftikhar Hussain
Through Mr. Mallag Issa Dashti,
Advocate.

Respondent : The State
Through Mr. Musharraf Azhar,
Special Prosecutor, ANF.

Criminal Bail Application No.2609 of 2025

Applicant : Muhammad Zeeshan S/o Noor Salam,
Through Mr. Qurban Ali Shahani,
Advocate

Respondent : The State
Through Mr. Musharraf Azhar,
Special Prosecutor, ANF.

Date of hearing : 03.11.2025

Date of order : 02.12.2025

ORDER

MIRAN MUHAMMAD SHAH, J – By this common order, we intend to dispose of above listed bail applications, as the same have arisen out of F.I.R. No. 01 of 2025 registered at PS ANF-Clifton, Karachi under Section 7, 9(2), 9, 14, 15 of the Control of Narcotic Substances Act, 1997, (**“Act of 1997”**). Their earlier applications for the same relief bearing Special Case No.21 of 2025 were dismissed by the learned Special Court-II,

(CNS), Karachi, vide orders dated 04.06.2025 and 15.09.2025 respectively.

2. The case of the prosecution, as set up in the subject FIR, is that on 03.01.2025, at about 0115 hours, ANF Examination Area. KICT Port, Karachi, ANF team, headed by Inspector Azlan Mir of Police Station ANF-Clifton, Karachi recovered from container No. UASU-1070547, [seven kilograms] of 'Methamphetamine ICE', which were found among the auto-parts being exported by both the applicants/accused on the export documents of M/s. Ayoub International, Lahore of Mohammad Zuhaib to Al-Arab Trading, Jeddah, Saudi Arabia, Karachi.

3. Learned counsel for the applicant/accused in Criminal Bail Application No.1690 of 2025 has argued that this is the second bail application on behalf of the applicant/accused before this Court, as earlier the first application was disposed of with directions to file afresh bail application before the Trial Court; that the applicant/accused filed two bail applications before the learned Trial Court, the same were dismissed; that the applicant/accused is innocent and did not commit the alleged offense nor has any illegal contraband been recovered from his possession, which is admitted position; that the name of the present applicant/accused is not mentioned in the FIR; that the applicant/accused has been implicated in this case on the statement of co-accused, which has no evidentiary value according to Evidence Act; that the applicant/accused is not the importer or the exporter of the consignment and it is important to mention here that there is not a single document,

which connects the applicant/accused with the alleged consignment; He lastly prays for grant of bail.

4. Learned counsel for the applicant/accused in Criminal Bail Application No.2609 of 2025 has mainly argued that no narcotics were recovered from the body, residence or custody of the applicant/accused and it is admitted possession that the alleged narcotics were recovered from a Container; an object exposed to multiple intermediaries. He lastly prays for grant of bail to the applicant/accused.

5. On the other hand, learned Special Prosecutor ANF has opposed for grant of bail to the applicants/accused on the ground that Seven Kilograms of "Methamphetamine" from the Cargo being exported by both the applicants/accused and Section 51 of the CNS Act, 1997 bars the grant of usual bail in narcotics cases.

6. After hearing the learned counsel for the applicants/accused in both bail applications, as well as learned Special Prosecutor, ANF, and after perusal of the record and the relevant narcotics law, it has been observed that no role of the applicants/accused has been established with the alleged consignment. The role attributed to them by the Investigating Officer in the challan can only be determined after recording evidence at the time of trial. No direct recovery of any narcotic substance made from the possession of the applicants/accused, nor has any incriminating material have been found in their possession.

7. The prosecution's case is full of contradictions which create doubt; resultantly, the case of the applicants/accused is one of further inquiry. It is now a settled principle of criminal justice that such doubt must benefit must goes in favour of the accused at the bail stage. It is also a settled principle that, in cases of further inquiry, the grant of bail is a rule and its denial an exception. The applicants/accused have no nexus with the alleged consignment, and it is an admitted fact that nothing has been recovered from their exclusive possession.

8. The Hon'ble Supreme Court has held that mere absence of recovery from an accused is a sound basis for grant of bail and where the nexus of the accused with the contraband is doubtful, bail should ordinarily follow. The case at hand requires deeper appreciation at the time of trial and squarely falls within the ambit of further inquiry.

9. The superior Courts have repeatedly emphasized strict procedural compliance due to the severity of punishment involved; failure in this regard weakens the prosecution's case. Mere chemical confirmation of the substance being *methamphetamine* does not prove that the applicants/accused were in conscious possession; such possession must be proved beyond reasonable doubt and cannot be presumed merely from documentary linkage. Any such presumption would infringe Articles 9 and 10-A of the Constitution, which guarantee liberty and fair trial. Additionally, the trial involves multiple accused, voluminous record, and international shipping documentation, making early conclusion of the trial improbable.

10. The prosecution's entire case proceeds on the assumption that the applicants/accused are the consignee of the recovered shipment, whereas the actual consignee named in the shipping and customs documents is an altogether different entity/person. Furthermore, the Bail Before Arrest of co-accused Muhammad Zuhaib has already been confirmed by the learned Trial Court, and same reasoning applies to the present applicants/accused, as no role has been established against them regarding the alleged consignment.

11. As far as the arguments of the learned Special Prosecutor, ANF, is concerned that the offence falls within the prohibitory clause, as seven kilograms of *methamphetamine* were recovered, attracting Section 497(1) Cr.P.C. It is settled law that in such cases, bail may be granted upon showing malafide or a clear legal infirmity, both of which are evident on the face of the record, as discussed above.

12. In view of the above facts and circumstances, both learned counsel for the applicants/accused have made out the case for further inquiry as envisaged under subsection (2) of Section 497, Cr.P.C. Consequently, both applicants/accused are admitted to post-arrest bail, subject to their furnishing solvent surety in the sum of Rs.2,00,000/-(Rupees two hundred thousand) each and PR bond in the like amount to the satisfaction of the learned Trial Court.

13. It is made clear that if, the applicants/accused after getting bail will not appear before the learned Trial Court and the Trial Court is satisfied that the applicants/accused

becomes absconder and fugitive to law, then the Trial Court is fully competent to take every action against the applicants/accused and their surety including cancellation of bail without referring to this Court.

JUDGE

JUDGE

Faheem/PA