

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C.P. No.D-2668 of 2025

Saghar Ali Versus Province of Sindh and others

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Date  
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Order with Signature(s) of Judge(s)  
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*Before:-*  
**Mr. Justice Zulfiqar Ali Sangi**  
**Mr. Justice Nisar Ahmed Bhanbhro**

Petitioner:

Saghar Ali son of Muhammad Hassan  
Through Mr. Shab Alam, Advocate

Respondent:

The State, through Mr. Ali Haider Saleem,  
Addl. Prosecutor General

Date of hearing:

16.07.2025

Date of Order:

16.07.2025

**ORDER**

**NISAR AHMED BHANBHRO, J.** Through instant constitution petition, petitioner Saghar Ali son of Muhammad Hassan seeks post arrest bail in Crime No. 212 of 2025 lodged at Police Station, Kharadar, Karachi for an offence punishable under Section 6/9/A and 6/9(2)/5 of Sindh Control of Narcotics Substance Act 2024 (SCNS Act 2024).

2. Brief facts of the prosecution case as unfolded in the FIR are that on 24.04.2025, the complainant/Sub Inspector Muhammad Saleem of Police Station Kharadar was busy in routine patrolling in the area along with PC Sultan, P.C. Ghani Muhammad; when they reached at Phool Chowk River Road, Lea Market Kharadar Karachi at 0130 hours they saw a suspicious person walking and carrying a cloth bag in his hand; he was apprehended on enquiry suspect disclosed his name Saghar Ali. On personal search two small tubs of plastics were recovered from his possession which contained intoxicant WEED each weighing 150 grams and 125 grams AND shopper containing Crystal (ICE) which weighed 600 grams. The accused/petitioner was arrested being found in possession of contraband narcotics. The recovered contraband material was sealed separately and memo of arrest and recovery was prepared at the spot. The accused and recovered contraband substance were brought at police station and FIR was on behalf of the State.

3. Learned counsel for the petitioner argued that the petitioner was innocent and falsely implicated in the case. He argued that the alleged recovery of contraband material

was foisted upon Petitioner. He argued that no private witness associated to witness alleged arrest though the place of arrest and recovery was thickly populated, which violated the provisions of Section 103 Cr.P.C. He argued that no video recording was done during the alleged arrest and recovery proceedings in violation of section 17 of SCNS Act 2024. He argued that all the witnesses in the case were police officials, there was no likelihood of tampering with the prosecution evidence. He lastly argued that the case of the petitioner called for further inquiry and did not fall within the prohibitory clause of section 497 Cr.P.C. wherein basic principle is bail but not jail. He relied upon the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934) and case of *Imdadullah V. The State* (2024 PCrLJ 652) and prayed for grant of bail to the petitioner/accused.

4. Mr. Ali Haider Saleem, Learned Deputy Prosecutor General for the State opposed the bail application on the grounds that the petitioner was apprehended red handed and he was found in possession of ICE weighing 600 grams and WEED weighing 275 grams, the recovered contraband was poisonous. All the witnesses supported the prosecution case in their statements recorded under section 161 CrPC, there was no animosity of the Police Party against the Petitioner for his false involvement. He contended that the officers of police were as good witnesses as the people from public. He contended that provisions of section 17 of the SCNS Act 2024 were not applicable to the case of Petitioner, he prayed for dismissal of the Petition as Petitioner was involved in heinous offence.

5. We have heard learned counsel for the parties and have perused the record with their able assistance.

6. Argument of the Learned Counsel for the Petitioner that the alleged place of recovery was a populated areas near a public park despite of that Police party failed to associate any independent person from public is without force. Without any proof as to the adversity of the complainant party against the Petitioner, the officers of the Police are competent witnesses and credibility of their evidence is at par to any other witness. The provisions of the Code of Criminal Procedure, 1898 to the extent of section 103 do not apply in the recovery proceedings related to contraband drugs. The makers of the legislation were live to the fact that people from public hardly cooperate police in the matters involving arrest of drug peddlers for want of safety and other reasons, therefore, through section 20 of the SNCS, Act 2024 the restrictions as to the search, seizure, arrest and recovery imposed under section 103 CrPC were lifted. The presumption that a person acts honestly applies, as much in favour of police personnel as of other persons and cannot be distrusted and suspected without sound reasons and grounds. Learned Counsel for the Petitioner could not place on record any material to elicit the ill will or animosity of the police party for his false implication. More over Petitioner was caught red handed

and found in possession of 600 grams of Crystal (ICE) and 275 grams of WEED in the wee hours of night at about 0130 hours and availability of persons of public during late hours of night at the spot was not possible.

7. The Petitioner allegedly was found in possession of 600 grams of ICE and 275 grams of WEED though the punishment provided under the law for the said offence was imprisonment which may extend to Seven Years and not less than Five Years (section 9(2)(5) of SCNS Act 2024) and fine up to One Million rupees and falls outside the limb of prohibition contained in section 497 CrPC. Though as general principle of law bail in such cases not falling under prohibitory clause is a rule and refusal an exception. This general rule regarding grant of bail in offences that do not attract the punishment falling under the definition of prohibition contained in clause (1) of section 497Cr.P.C has sought certain well established exceptions enunciated by the Honorable Apex Court viz – a - viz likelihood to abscond to escape trial; likelihood to tamper with the prosecution evidence or influence the prosecution witnesses to obstruct the course of justice; and the likelihood to repeat the offence. The case of the Petitioner falls in an exception to the general rule for grant of bail and will be examined through a different yard stick as he is involved in case for spread of Crystal (ICE) and WEED. It is generally observed that the accused involved in spread of lethal drugs are professional criminals and there is very likelihood of repeating the offence if the accused is granted bail as alleged against the accused in the instant matter. In the given circumstances the accused cannot be granted bail merely because the offence alleged against him was not punishable for ten years or more, particularly when he was accused of spreading narcotics. The Honorable Supreme Court of Pakistan in a number of cases has held that bail cannot be granted in a run off a mill manner in the cases involving spread of lethal drugs for their desperate attempts to pollute the society.

8. We are fortified in our view by the judgment of Honorable Supreme Court in the case of Mst. Fursan Versus the State reported in 2022 S C M R 1950 wherein while declining the bail plea of the petitioner involved in a narcotics case, it has been observed as under:

*9. While examining the applicability of the third exception, relied upon by the learned counsel for the State, as to the likelihood of the repetition of the offence by the petitioner, we find that the offences relating to narcotic drugs are of such a nature that do indicate the likelihood of the repetition of the offence by the accused. Dealing in narcotic drugs is usually the business of the persons involved therein, and is not a spontaneous or one time act, and the women are often involved in it as carriers for the transportation, supply and sale of narcotic drugs.<sup>6</sup> The likelihood of such an offence being repeated by the petitioner cannot, therefore, be ruled out. The case of the petitioner thus comes within the scope of the exception of likelihood of repeating the offence.*

9. Adverting to the contention of the Learned Counsel for the Petitioner that during arrest and recovery proceedings provisions of section 17 of the SCNS Act 2024 were not followed, which created serious doubt in the prosecution story and benefit of the doubt can be extended at the time of deciding bail. Per prosecution case Petitioner was arrested from a street and contraband was recovered from his personal possession, whereas section 17 of SCNS Act 2024 burdened the head of the raiding party to record a video when search of a building, place, premises or conveyance where the contraband substances is allegedly concealed is required to be done and it is not possible to obtain the warrant of search, seizure and arrest from the competent Court of law with promptitude. Section 17 of the SCNS Act 2024 reads as under:

**17. Power of entry, search, seizure, and arrest without warrant:**

(1) Where an officer, not below the rank of Inspector of Narcotics Control or equivalent authorized in this behalf by Director General Narcotics Control Sindh, who from his personal knowledge or from information given to him by any person is of opinion that any narcotic drug, psychotropic substance, precursor chemicals or controlled substance and methamphetamine in respect of which an offence punishable under this Act has been committed is kept or concealed in any building, place, premises or conveyance, and a warrant for arrest or search cannot be obtained against such person without affording him an opportunity for the concealment of evidence or facility for his escape, such officer may-

- (a) enter into any such building, place, premises or conveyance;
- (b) break open any door and remove any other obstacle to such entry in case of resistance;
- (c) seize such narcotics drugs, psychotropic substances, precursor chemical, controlled substances and other materials used in the manufacture thereof and any other article which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act; and
- (d) detain, search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed an offence punishable under this Act; and

(2) The video recording of all raids, seizures, inspections and arrests shall be made by the officer in-charge of such operations.

(3) Before or immediately after taking any action under subsection (1), the officer referred to in that sub-section shall record the

grounds and basis of his information and proposed action and forthwith send a copy thereof to his immediate superior officer.

(4) All the offences under this Act shall be cognizable and non bail-able.

Bare reading of the above provisions of law made it abundantly clear that video recording was mandatorily required in the case of search of building, place, conveyance or premises wherein any narcotic drug, psychotropic substance, precursor chemicals or controlled substance and methamphetamine in respect of which an offence punishable under SCNS Act 2024 has been committed is kept or concealed and warrant for such search cannot be obtained promptly. Case of the Petitioner was on a different premise, he was as on a tip off he was arrested from a street outside the public park as such his arrest was not covered by the provisions of section 17 supra. Honorable Apex Court in the case of Zahid Sarfaraz Gill supra 2024 SCMR 934 while granting bail to the accused made an observation for video recording of arrest and recovery proceedings through built in mobile camera as the accused was allegedly arrested from a public street of a populated area in the evening time. As such the facts and circumstances of the present case are distinguishable from the facts and circumstances of Zahid Sarfaraz Gill case since the accused has been arrested from a street during late night.

10. In the present case accused is involved in peddling of lethal drugs like ICE and WEED, very poisonous type of psychotropic substance that has ruined the future of youth. While dealing with the bail matters under writ jurisdiction of this Court we have experienced that agencies involved in detecting this sophisticated crime have nabbed students having age less than 18 years, doctors, engineers and sons of the families tagged as Hi – Fi involved in intoxication of WEED and ICE and found in possession of very small quantities of WEED and ICE weighing 10, 15, 20 and 25 grams. ICE is a slang term describing a psychotropic substance named methamphetamine which is a very dangerous, powerful, highly addictive drug due to its resemblance it is popular as ICE or CRYSTAL. This poisonous drug decreases appetite, results in high blood pressure and rapid heart rate. The youth addicted to ICE reacts aggressively and causes intense psychological dependency and if used for long, it erodes brain and damages memory. WEED also carried more or less the similar effects.

11. The makers of the SCNS Act 2024 were live to the fact that ICE and WEED was affecting the educational institutions therefore made it compulsory for trial court to inflict maximum punishment to the offender when found committing offence within a radius of 300 meters of the educational institution. In a further development through legislation strict punishment has been provided against the recovery of ICE. Under section 9 of SCNS Act 2024 the punishment for the offence committed in contravention of section 6, 7 & 8 of the Act has been provided, wherein Bhang weighing 20000 grams or more,

Poppy Straw weighing 15000 grams or more, Charas weighing 10,000 grams or more, Hashish Oil and Liquid Hashih weighing 5000 grams or more, Cocaine weighing 5000 grams or more is punishable to an imprisonment for life, whereas under proviso to sub section2 of section 9 ICE weighing 4000 grams is punishable to an imprisonment for life. Section 9(2) of CNS Act reads as under:

- 9 (1) .....
- (2) Whoever contravenes the provisions of sections 6, 7 and 8 regarding psychotropic substances shall be punished with punishment as given in column (3) of the TABLE below with regard to quantity of psychotropic substances given in column (2) thereof, namely:

TABLE

Sr. No.	Offence with regard to quantity of psychotropic substance	Punishment
1.	2.	3.
1.	Up to 20 grams.	Imprisonment which may extend to one year but shall not be less than two months along-with fine which may be up to one hundred thousand rupees.
2.	More than 20 grams and up to 50 grams.	Imprisonment which may extend to two years but shall not be less than one year along-with fine which may be up to two hundred thousand rupees.
3.	More than 50-grams and up to 100 grams.	Imprisonment which may extend to three years but shall not be less than two years along-with fine which may be up to three hundred thousand rupees.
4.	More than 100-grams and up to 500 grams.	Imprisonment which may extend to five years but shall not be less than three years along-with fine which may be up to five hundred thousand rupees.
5.	More than 500-grams and up to one kilo grams.	Imprisonment which may extend to seven years but shall not be less than five years along-with fine which may be up to 1 million rupees.
6.	More than one kilo grams and up to two kilo grams.	Imprisonment which may extend to ten years but shall not be less than seven years along-with fine which may be up to twelve hundred

		thousand rupees.
7.	More than two kilo grams and up to three kilo grams.	Imprisonment which may extend to fourteen years but shall not be less than ten years along-with fine which may be up to sixteen hundred thousand rupees.
8.	More than three kilo grams and up to four kilo grams.	Imprisonment which may extend to twenty years but shall not be less than fourteen years alongwith fine which may be up to eighteen hundred thousand rupees.
9.	Exceeding four kilo grams.	Imprisonment which shall not be less than life imprisonment alongwith fine which shall not be less than two million rupees.

**Provided that if any offence is committed relating to psychotropic substance inside or in the radius of 300 Meters of a school, college, university, educational setting or any other educational institution, he shall be punishable with maximum punishment provided for that offence:**

Provided further that if any person who has previously been convicted for any offence under this Act is subsequently convicted for the offence relating to psychotropic substance and quantity does not exceed two kilograms than he shall be convicted with maximum punishment provided for that offence:

Provided also that if the quantity of psychotropic substance in subsequent offence exceeds two kilograms, the punishment shall not be less than life imprisonment.

**Provided also that if recovered psychotropic substance is methamphetamine (ICE) given at serial number 47 of the Schedule-III(a) to this Act and quantity exceeds four kilograms, punishment shall be life imprisonment and fine which may not be less than two and half million.**  
(underlining is for emphasis)

12. The legislation has taken the notice of the fact that drug menace has posed a protentional threat to a peaceful society of Karachi and it is affecting many lives especially the youth, but due to lackadaisical enforcement of the laws on ground this

menace has spread and poisoning the society as a whole, therefore, stern actions are required to be taken to curb the nefarious activities of contraband drug suppliers. The drug peddlers have selected Educational Institution and hospital as soft targets and if these targets are not saved that may result in heavy damage to the future of city in general and country in particular. The fruits of the legislation would yield the results only when the society and government institutions work together to face off this menace. There is a dire need of street level awareness to curb this menace with a special focus on educational institutions. Education, Health, University and Boards, Home and Excise and Taxation Department of Sindh in collaboration with parents and teachers need to devise a strategy to weed out this crime and secure the future of students. The Education Department in collaboration with health department should conduct random tests of the teacher and taught studying in class IX and above to the university levels to ensure that our children are safe from drug menace.

13. Learned Counsel for the Petitioner has relied upon the case of Imdadullah, the judgment of case of Imdadullah supra has been perused carefully, in the said case accused was granted bail by the Learned Single Bench of Peshawar High Court as no recovery was affected from his possession and he was found standing at the place where allegedly ICE was being manufactured.

14. Given red-handed arrest of the petitioner with a considerable quantity of lethal contraband, confirmed by a positive forensic report, the recovery memo duly supported by marginal witnesses who were present on the spot with the seizing officer coupled with no ill-will, mala fide or any animosity on the part of police for false implication in the instant case, and likelihood of repetition of same offence, brought the case of Petitioner within the remit of exception to general rule for grant of bail, thus disentitled petitioner from concession of bail. Needless to say that case of a person accused of selling contraband material stands at a different footing in comparison to the person accused of drug addiction.

15. For what has been discussed herein above Sufficient incriminating material was available on record so tentatively assessed to connect the Petitioner with the commission of crime, hence no case for grant of bail is made out. This Petition therefore fails and the same is accordingly dismissed. Needless to observe that the trial Court shall proceed with the trial uninfluenced by the observations made hereinabove and decide the case on the basis of evidence produced by the parties at trial.

JUDGE

JUDGE



