

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.790 of 2025

Applicant : Mahmood Ahmed son of Muhammad Aslam
through Mr. Manzoor Ahmed, Advocate

Respondent : The State
through Mr. Sarfaraz Ali Mangi, Special
Prosecutor ANF.

Date of hearing : 10.04.2025

Date of order : 10.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant, Mahmood Ahmed, seeks post-arrest bail in a case bearing crime No. 19/2025, offence u/s 6 and 9(c) R/w Sections 3, 14, and 15 of the Control of Narcotic Substances Act, 1997, of P.S. ANF MACHS, Korangi, Karachi. His earlier application for the same relief was declined by the learned Judge, Special Court-III (CNS), Karachi, vide order dated 19.03.2025.

2. The case of the prosecution, as per the FIR, is that on 01.03.2025 at about 1415 hours, the complainant, SI Hamad Ali Shah of PS ANF-II MACHS Karachi, acting on a tip-off allegedly received through superior officers, apprehended the applicant near Taj Complex, M.A. Jinnah Road, Saddar, Karachi. Upon search, 91 capsules containing Methamphetamine (Ice) weighing a total of 60 grams were allegedly recovered from his possession. Consequently, the present FIR was registered.

3. Learned counsel for the applicant submits that the accused has been falsely implicated due to personal enmity with the complainant. He further argues that the quantity allegedly recovered i.e. 60 grams does not fall within the prohibitory clause of Section 497 Cr.P.C., and carries a minimum sentence of two months' imprisonment along with a fine of Rs.25,000/-. It is also contended that the case rests solely on official witnesses, and there is a complete absence of independent corroboration or electronic evidence. He prays for the grant of post-arrest bail.

4. Conversely, the learned Special Prosecutor ANF has opposed the bail plea on the ground that no mala fide has been attributed to the ANF officials and that the recovery stands established through lawful

procedure. It is submitted that the applicant is not entitled to the concession of bail at this stage.

5. I have heard the learned counsel for the respective parties and examined the material available on record. It is an undisputed position that the quantity of contraband allegedly recovered from the applicant falls within the non-prohibitory clause. The punishment prescribed for such an offence, as per the Second Schedule of the CNS Act read with Sr. No.3, is two to six months and fine of Rs.25,000/- and it is settled law that while deciding bail application, lesser punishment is to be taken on account.

6. Additionally, the recovery is alleged to have taken place from a busy public area, Taj Complex, M.A. Jinnah Road, Karachi yet no effort appears to have been made by the ANF officials to associate any independent witness to the recovery proceedings. No video recording, photograph, or other modern mode of documentation has been produced to support the claim of recovery. In this regard, valuable guidance is found in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the Hon'ble Supreme Court observed that in narcotics cases where the entire prosecution case hinges on official witnesses, the absence of electronic or photographic evidence, particularly when the recovery is made in a public place and in broad daylight, casts a shadow of doubt on the transparency of the alleged recovery. Such cases, it was held, merit further inquiry under Section 497(2) Cr.P.C.

7. Keeping in view the nature of the offence, the limited quantum of contraband, the absence of independent corroboration or modern evidentiary support, and the settled law laid down by the apex Court, I am of the view that the case of the applicant falls within the ambit of further inquiry. The applicant is no more required for investigation, and no useful purpose would be served by his continued incarceration.

8. Accordingly, the applicant Mehmood Ahmed is admitted to post-arrest bail subject to furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand only) and a personal bond in the like amount to the satisfaction of the trial Court.

JUDGE