

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 726 of 2025

Applicant : Arif Gul son of Khan Gul
Through Mr. Kamran Ali Abro, learned advocate

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

Date of hearing : 08.04.2025

Date of order : 17.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. The applicant Arif Gul seeks post-arrest bail in a case bearing crime No. 61/2024, offence u/s 9(2), Sr. No.6 – Sr. No.6(a), 14 & 15 of the Control of Narcotic Substances Act, 1997 (as amended by Act of 2022) of Police Station ANF MACHS, Karachi. The earlier bail plea of the applicant was declined by the learned Special Court-III, CNS, Karachi, vide order dated 10.03.2025.

2. As per prosecution theory, on 23.08.2024, the complainant along with sub-ordinate staff received information from Manager Smart Courier, Franchise Clifton, Karachi, regarding suspicious consignment booked for Australia by the applicant and one Sajid Gul. The complainant along with team checked the suspicious consignment and recovered 1140 grams of Methamphetamine and 50 grams of heroin from 20 hockey balls. Consequent upon; case was registered inter-alia on above facts.

3. Learned counsel contended that the applicant has been falsely implicated with malafide intent and ulterior motives. It was submitted that no recovery has been effected from the exclusive possession or control of the accused. The undertaking relied upon by the prosecution, allegedly dated 03.03.2023, was used in support of the instant crime dated 14.04.2024 without forensic verification of the applicant's signature through a handwriting expert. Moreover, the courier Manager allegedly reported the matter directly to ANF officials, bypassing the standard protocol of contacting the local police or dialing emergency helpline '15', which casts doubt upon the initial credibility of the complaint. The learned counsel emphasized that there is no CCTV footage or photographic evidence demonstrating the accused's presence at the courier office or linking him to the booking of the suspicious parcel. Nor were any independent witnesses, such as the stamp vendor or courier staff,

associated in the alleged recovery proceedings. It was further argued that no CDR was obtained to establish the presence of the accused at the time and place of alleged booking, and that the booking receipts lacked traceable ID numbers. Lastly, it was submitted that even if some receipts were recovered, the same do not establish culpability in absence of corroborative material, and therefore, the case calls for further inquiry.

4. Conversely, learned Special Prosecutor ANF opposed the bail and argued that the accused booked the parcel containing Ice Methamphetamine, and was identified by a private witness as the same person who dispatched the consignment. He emphasized the absence of any enmity or animosity on part of the ANF officials. It was further argued that the accused is allegedly a habitual offender involved in dispatching narcotics through courier services and is therefore not entitled to the concession of bail.

5. Record reflects, the entire action of the ANF commenced on the information provided by a private person, Manager of Smart Courier Services. However, despite being the source of the initial information, neither he has named nor has been cited witness. No plausible explanation has been offered as to why the individual who allegedly detected the suspicious parcel was neither examined nor made part of the investigation. It is further surprising that the said Manager did not report the matter to the local police or through the emergency helpline, but instead directly approached a specialized agency. This raises questions about the chain of information and the manner in which ANF officials proceeded with the alleged recovery.

6. Moreover, Smart Courier Services is a reputed and internationally affiliated service provider; yet, no CCTV footage has been provided to show the receipt or booking of the parcel by the present applicant. No booking timestamp, ID, or footage was produced to confirm when and how the parcel was handed over, nor has any documentation been filed to show the process or screening mechanism employed by the courier service to identify the alleged contraband. This lack of basic compliance with security protocols raises doubts regarding the genuineness of the prosecution version.

7. Valuable guidance may be drawn from the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the Hon'ble Supreme Court emphasized the importance of modern tools such as video footage and photographic evidence in cases resting primarily on official witnesses. The

apex Court held that absence of such evidence especially where recovery is claimed in broad daylight from a commercial premises, casts serious doubt on the reliability of the prosecution's version and renders such cases as fit for further inquiry under Section 497(II) Cr.P.C.

8. It also appears dubious that a person intending to send narcotics internationally would use his real name and correct parentage on a shipment manifest. Additionally, the ANF did not associate any independent witness at the time of seizure, even though the recovery was conducted from a commercial courier center where several employees and staff members were available. This failure further undermines the transparency of the proceedings.

9. The Court is also constrained to note the serious procedural lapse committed by the investigating agency: only four samples of 10 grams each totaling 40 grams were extracted from the recovered substance for chemical analysis. It is now a settled principle, reaffirmed in *Sharafat Khan v. The State* (PLD 2022 SC 281), that representative samples must be drawn from each physically separate and independent unit. The failure to do so renders the evidence questionable and prejudices the accused's right to fair trial under Article 10-A of the Constitution.

10. The cumulative effect of the non-citation of the Manager Smart Courier Services as witness, absence of independent corroboration, lack of technical or electronic evidence, unexplained procedural irregularities, and material lapses in sampling, all point to the conclusion that the case against the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, the applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs. 300,000/- (Rupees Three Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

J U D G E