

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 394 of 2025

Applicant : Muhammad Zahid so of Ghulam Qadir
Through Mr. Mansoor Ali Korejo, advocate

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

Date of hearing : 08.04.2025

Date of order : 21.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. The applicant Muhammad Zahid seeks post-arrest bail in a case bearing crime No. 52/2024, offence u/s 6/9(1)(3)(c) of the Control of Narcotic Substances Act, 1997 (as amended by Act of 2022) of Police Station ANF Clifton, Karachi. It is noted that earlier, the bail application of the present accused was declined by the learned Special Court-I, CNS, Karachi, vide order dated 22.01.2025.

2. According to the contents of the FIR, on 04.12.2024, Sub-Inspector Muhammad Shah Syed Hashmi of PS ANF Gulshan-e-Iqbal received spy information from his superior officers that a known drug peddler, Faheem Khan, through his agent Muhammad Zahid, was supplying narcotics to university and college students and would be delivering narcotics to a specific customer near Al-Asif Square, Power Cement Chowrangi, Super Highway, Karachi between 1845 to 1900 hours. Acting on this information, the complainant along with his staff proceeded to the pointed location, where the applicant was allegedly found waiting on a motorcycle in a suspicious manner. Upon inquiry, the applicant is stated to have voluntarily handed over two yellow tape-wrapped packets of *charas* from a blue plastic shopper placed on the motorcycle's fuel tank. Both packets were found to weigh one kilogram each, making a total of two kilograms of *charas*. Consequent upon; case was registered inter-alia on above facts.

3. The learned counsel argued that the applicant has been falsely implicated due to malafide intentions and ulterior motives. It was submitted that the applicant was taken into illegal custody from his residence and thereafter falsely booked in the present case upon failure to pay bribe. He pointed out multiple factual deficiencies in the prosecution case: (i) no dummy customer was sent by ANF officials to verify or effect the alleged sale; (ii) no private or independent witness was associated with the alleged recovery, despite the alleged incident taking place at a public location; (iii) although the FIR claims that the narcotics

were being supplied to students of universities/colleges, not a single name of any such student, past or intended recipient, has been mentioned; and (iv) no CDR or other telecommunication evidence has been produced to substantiate any network or link of the applicant with Faheem Khan or any narcotics distribution chain.

4. The learned Special Prosecutor ANF opposed the application, contending that the applicant was apprehended red-handed in possession of a commercial quantity of narcotics. He further argued that no specific enmity or ill-will has been demonstrated by the applicant against the complainant party to substantiate his plea of false implication.

5. Perusal of the record shows that the allegations pertain to recovery of two kilograms of *charas*, which, under the amended CNS Act, 2024, attracts punishment under Section 9(c), ranging from a minimum of 9 years to a maximum of 14 years. Ordinarily, this may place the offence within the prohibitory clause of Section 497(1) Cr.P.C. However, it is now well settled through judgments such as *Jamaluddin alias Zubair Khan v. The State* (2012 SCMR 573) and *Ismail Aijaz v. The State* (2023 P.Cr.L.J 114) that for the purposes of bail, the likely sentence upon conviction must be assessed with reference to the peculiar facts of the case.

6. Most notably, this Court finds several critical investigative gaps which cast doubt on the veracity of the prosecution's case at this stage. Although prior information of a drug delivery to a specific customer was allegedly received, no decoy or dummy customer was arranged to confirm the alleged transaction. Despite the serious allegation of narcotic supply to university and college students, the prosecution has not named a single alleged recipient or previously supplied individual. No CDR or digital data has been collected to support the alleged role of the applicant in any drug-peddling network or to establish any connection with co-accused Faheem Khan. The alleged recovery was affected without associating any independent, neutral, or private witness, although the spot of recovery is claimed to be a public place.

7. In the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), the Supreme Court stressed the importance of modern evidentiary tools, such as video or photographic documentation, particularly in narcotics recoveries which rest solely on official witnesses. It was held that failure to collect such corroborative evidence, where feasible, undermines the reliability of prosecution claims and renders the matter one of further inquiry under Section 497(II) Cr.P.C. The Supreme Court further directed the authorities to consider amending procedural rules to mandate such documentation in future operations.

8. Keeping in view the material inconsistencies and evidentiary shortcomings at this stage, prima facie applicant has succeeded to make out case for further inquiry as envisaged under Section 497(II) Cr.P.C. Accordingly, the applicant is admitted to bail, subject to furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousand only) and a personal bond in the like amount to the satisfaction of the learned trial court.

J U D G E