

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P.No.D-2090 of 2025
(Murtaza and another vs. Province of Sindh and another)

Date	Order with signature of Judge
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Present:
Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

25.06.2025

M/s Aleem Akhtar Shaikh and Sadam Hussain Nohari advocates for
petitioners
Mr. Mumtaz Shah Assistant Prosecutor General

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Muhammad Karim Khan Agha, J.- Petitioners Murtaza and Anis have been booked in FIR bearing Crime No.170/2025 registered at PS Rizvia, Karachi for offence under Section 9(1)3(c) of Control of Narcotics Substance (Amendment) Act 2022. The petitioners have approached this Court for grant of post arrest bail.

2. Succinctly the facts of the prosecution case are that on 29.04.2025, SI Muhammad Hussain along with his subordinate staff was on patrolling. During patrolling on spy information apprehended the petitioners and recovered 1100 grams of charas from petitioner Muhammad Murtaza and 1050 grams of charas from petitioner Muhammad Anis respectively. Accused were arrested on spot; charas was sealed and sent to chemical examiner for report. Thereafter, petitioners were brought at Police station Rizvia where aforesaid FIR was registered against them on behalf of state.

3. We have heard learned counsel for the parties and have perused the record.

4. Perusal of record reflects that both the petitioners have been in custody since the date of their arrest i.e. 29.04.2025, which is over 02 months ago, yet only challan has been submitted and no charge has been framed. It is doubtful whether challan submitted before the Court has jurisdiction to hear this case. Be that as it may, the prosecution witnesses are yet to be examined and it shall take some time. It appears that both the petitioners have been arrested by a joint memo of arrest and recovery, the Apex Court in the case of **Shahid Hussain alias Multani vs. The State and others** (2011 SCMR 1673)

has held that evidentiary worth of such memo may be next to nothing. Even learned APG has failed to show us any photograph or video recording of such seizure. It appears that punishment provided for the offence is imprisonment which may extend to fourteen years but shall not be less than nine years along-with fine which may be up to four hundred thousand rupees but not less than eighty thousand rupees. Since the police has recovered narcotics, it is not possible for the petitioners to tamper with the evidence; the matter has already been challaned and petitioners are in continuous custody since their arrest and are no more required for any investigation nor the prosecution has claimed any exceptional circumstance, which could justify keeping them behind the bars for an indefinite period pending determination of their guilt. Moreover, it is settled principle of law that bail cannot be withheld as punishment. Based on the aforesaid discussion, both petitioners namely Murtaza son of Hanif and Anis son of Hanif are admitted to post arrest bail subject to their furnishing solvent surety in the sum of Rs.300,000/- (Rupees Three Lacs) each and P.R bond in the like amount to the satisfaction of the Nazir of this Court. The petitioners shall appear before the trial on each and every date of hearing.

5. It is made clear that this order is based only on a tentative assessment of the evidence on record and shall have no bearing on the trial court proceedings which shall be decided on merits without being influenced by this order.

6. The instant petition stands disposed of in the above terms along with all pending applications.

HEAD OF CONST. BENCHES

JUDGE