

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
MIRPURKHAS**

CP. No. D- 388 of 2025
[Muhammad Naeem v. Province of Sindh & others]

BEFORE:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Yousuf Ali Sayeed

Petitioner : Through Mr. Sikandar Ali Kolachi, Advocate

Respondent : Through Mr. Ayaz Ali Rajpar, Addl. A.G. &
Mr. Ghulam Abbas Dalwani, A.P.G

Date of hearing
& Decision: 09.07.2025

ORDER

ADNAN-UL-KARIM MEMON J:-, The petitioner prays for grant post-arrest bail in Crime No. 87 of 2025 registered at Police Station Kunri under Section 9(i) 6(A) of the Sindh Control of Narcotic Substances Act 2024.

2. Petitioner's counsel asserts that the Petitioner is innocent and the above FIR is false and fabricated; that the idea that the petitioner would openly carry and sale 17 grams of narcotics in public place in broad daylight is highly improbable and raises serious doubts about the prosecution's truthfulness; that the FIR admits no independent or public witnesses (mashirs) were present at the time of alleged recovery; that only police personnel subordinates to the complainant were cited as mashirs which undermines the authenticity and credibility of the recovery. This violates Section 103 Cr.P.C, as well as Sections 21 and 22 of the Narcotics Act, especially given that the arrest occurred in a thickly populated and busy area; that the FIR was delayed by 40 minutes without any plausible explanation, suggesting it was lodged after collaboration and consultation. The petitioner's counsel claims that the petitioner is falsely implicated in this case on refusing to give an "Eid Kharchi" (Eid gratuity) demanded by the police when he was purchasing medicine for his mother; that the petitioner is already confined in jail and no more required for further investigation; that granting bail is a rule and refusal is an exception, especially without exceptional circumstances; that continuous detention of petitioner constitutes an abuse of legal process and a violation of his fundamental and constitutional rights under Articles 4, 9, 10-A, 14, 15 and 24 of the Constitution.

4. Learned A.P.G has objected to the grant of bail to the petitioner on the ground that he was arrested at the spot and 17 grams of ICE was recovered from his possession; that the petitioner has failed to show any enmity and / or malafide on the part of police. Learned Additional A.G. adopted the arguments of learned APG. However, they both conceded that the petitioner has no previous criminal record.

5. Heard learned counsel for the parties and perused the record with their assistance and the case law cited at the bar.

6. Petitioner Muhammad Naeem has been implicated in Crime No. 87 of 2025 registered at Police Station Kunri District Umerkot under Section 9(1) 6(A) of the Control of Narcotic Substances Act 2024. The FIR alleges his arrest on May 28, 2025 at 2:00 P.M with 17 grams of "ICE" (narcotics) and other items. He is currently held in Sub-Jail Umerkot and is no longer required for investigation. Due to legal bar imposed by Section 35 of the Sindh Control of Narcotic Substances Act 2024, and a recent order from the Court in CP No.D-937 of 2025, the Sessions Court lacks jurisdiction to hear bail applications under this Act. Therefore, the petitioner is seeking relief under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as he has no other effective remedy.

7. We have noticed that the case of Ateebur Rehman v. The State (2016 SCMR 1424), which involved recovery of 1014 grams of heroin, and Aya Khan and another v. The State (2020 SCMR 350), which involved recovery of 1100 grams of heroin, and bail was granted by the Supreme Court. In principle, bail does not mean acquittal of the accused but only a change of custody from police to the sureties, who, on furnishing bonds, take responsibility to produce the accused whenever and wherever required to be produced. On the proposition above, we are fortified with the decision of Supreme Court in the case of Haji Muhammad Nazir v. The State (2008 SCMR 807).

8. Keeping in view the meager quantity of narcotics recovered, which carries a sentence of less than five years, and the admission that the petitioner has no prior criminal record, this Constitutional Petition for bail has force.

9. These are the reasons for our short order of even date, by which the Petition for bail was allowed and the Petitioner was granted post-arrest bail in Crime No. 87 of 2025 registered at Police Station Kunri under Section 9(1) 6(A) of the Sindh Control of Narcotics Substance Act 2024 subject to furnishing solvent surety in the sum of Rs.50,000/- and P.R. Bond in the like amount to the satisfaction of the trial Court.

10. The observation recorded hereinabove is tentative and shall not prejudice the case of either party at trial. However, the trial Court shall endeavor to examine the Complainant / his witnesses positively within a reasonable time. If the charge has not been framed, the same shall be framed before the date so fixed by the trial Court, and a compliance report shall be submitted through the Additional Registrar of this Court. The Additional Registrar shall ensure compliance with the order.

J U D G E

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