

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Criminal Bail Application No.S- 53 of 2025.

Applicant: Nadeem @ Cheno S/o Moti.
Through Mr. Francis Locus Khokhar, Advocate.

The Respondent: State
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of hearing: 13.03.2025.

Date of order: 13.03.2025.

ORDER

Dr. Syed Fiaz ul Hasan Shah, J: Through instant bail application, applicant Nadeem @ Cheno seeks his admission to post arrest bail in Crime No.20 of 2025 under section 9(I)(Sr.03)-(a) Sindh Control of Narcotics Act 2004, registered with P.S Digri. After the arrest applicant preferred his bail plea before the Court of Sessions Judge/Special Judge CNSA Mirpurkhas vide Criminal Bail Application No.173/2025 (Re-Nadeem @ Cheno Vs. The State) and same was dismissed vide order dated 26.02.2025; hence, instant bail application has been maintained.

2. The brief facts of prosecution are that on 17.02.2025 at 1730 hours at Digri to Kot Ghulam Muhammad main road near by-pass Kot Ghulam Muhammad, Deh 178 Taluka Digri, the present applicant/accused was apprehended by the Police with a shopper containing seven small and big pieces of chars weighing 265 grams.

3. The Applicant has been accused of the offence under section 9(1)(Sr.03) (a) Sindh Control of Narcotics Act 2004, which entails a maximum punishment of three years. The offence does not

fall within the prohibitory clause of Section 497, Cr.P.C. which may qualify the matter to be one wherein the grant of bail is a rule and refusal is an exception in view of the dictum laid down by Hon'ble Supreme Court of Pakistan in per **Tariq Bashir and Others Vs. the State, PLD 1995 Supreme Court 34 and Muhammad Tanvir Vs. the State, PLD 2017 Supreme Court 733.**

4. The Challan has been submitted before the trial and the Applicant is no more required for investigation. Therefore, no fruitful purpose would be achieved while to keep the Applicant into incarceration for an indefinite period of trial. Even the Prosecution has no apprehension that the Applicant, if he is released, he might be damaged or tamper with the prosecution's evidence. The Prosecution has not highlighted circumstances, which would indicate that any exceptions to the aforesaid rule as per the said case laws apply in the present case. Under the facts and circumstances of the case in hand, when an investigation has been completed and challan has been submitted before the trial Court, the Applicant in case, he is freed, he cannot tamper with the prosecution evidence nor is there any prior conviction and no apprehension of absconding has been expressed at all. It does not appear that the Applicant's incarceration would serve the cause of justice.

5. The rule of bail is greatly inspired by the reasonableness of sufficient material of each case on its own inter dependent merits while formulation of tentative assessment on the basic analogy that if the accused is ultimately acquitted after a long process of the trial, the criminal statutory laws do not provide the alternative remedies or as successive parts to act and perform towards effective measures

encompasses the concept of reparation or compensation for long incarceration under charge with unproven or without proven guilt. Hence no fruitful result would achieve to keep the accused under incarceration for indefinite period and keep waiting to the conclusion of trial which may ultimately led either towards the conviction and sentence, one way to utilize such incarceration period vis-à-vis the other alternative way is the acquittal, and in such situation the statutes do not adequately accommodate such long incarceration except the concept of bails. This law has been developed by the Superior Courts and generally recognized as "tentative assessment of each case according to its facts and own merits. Therefore, after forming tentative assessment and looking to statutory embargo, the present case even otherwise does not fall within prohibitory clause.

6. These are the reasons of my short Order dated 13.03.2025. Needless to say that any observations made hereinabove are tentative in nature only for the assessment of tentative which shall not affect the trial for determination of guilt or innocence and the trial Court will try the case without being influenced with above observations.

JUDGE

"Adnan Ashraf Nizamani"