

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P No.D-3533 of 2025

DATE: ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For orders on CMA No.18719/2025.
2. For orders on CMA No.18720/2025.

16.09-2025

Mr. Nusrat Ali Shar, Advocate for the Petitioner.
Mr. Siraj Ahmed Chandio, Addl. P.G, Sindh.

1. Granted.
2. The Petitioner had invoked the Jurisdiction of this Court under Article 199 of the Constitution on 24.07.2025, seeking post-arrest bail in FIR No.282 of 2025, registered under Section 9(1)(3)(c) of the Sindh Control of Narcotics Substance Act, 2024 (the “Act”), at the time when Section 35 thereof curtailed the right an accused person to seek such relief in the normal course under Section 497 Cr.P.C. in respect of offences under the Act. That Section, in its original form, read thus:

“35. (1) Notwithstanding anything contained in sections 496 and 497 of the Code, the bail shall not be granted to an accused person charged with an offence under this Act.

(2) The trial court shall conclude the trial within a period of six months”.

Several provisions of the Act then came to be amended through promulgation of the Sindh Control of Narcotics Substance (Amendment) Act, 2025 on 18.08.2025, with Section 35(1), as substituted, now reading as follows:

“35. When bail may be taken in offences registered under this Act. (1) When any person accused of any offence registered under this Act is arrested or detained with or without warrant by any authorized officer under sections 16, 17, 18, 19 and 28, or appears or is brought before a Special Court or competent court, he may be released on bail, but he shall not be so released if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death, imprisonment for life or imprisonment up-to five years.

Provided that the Special Court or competent court may direct that any person under the age of fourteen years or any sick or infirm person, endangering such sickness and infirmity to his life, accused of such an offence be released on bail:

Provided further that a person accused of an offence as aforesaid shall not be released on bail unless the prosecution has been given at least forty-eight hours’ notice to show cause why he should not be so released.”

In view of that development, the Petition was dismissed on 01.09.2025, leaving the Petitioner at liberty to avail his remedy accordingly. However, as it transpires, the Bail Application moved by the Petitioner before the Court of the learned Additional Sessions Judge-IV/Special Judge (CNS) Malir, Karachi, in Sessions Case No.1680 of 2025 arising out of the FIR, nonetheless came to be dismissed on a jurisdictional ground vide an Order dated 08.09.2025, with it being held that the Amendment did not cover the cases that had previously been registered under the Act.

Learned counsel for the Petitioner submits that the Order dated 08.09.2025 is perverse and misconceived, hence the listed Application seeking restoration of the Petition. Be that as it may, whilst the interpretation of the forum below is disconcerting to say the least, with it being apparent that the Special Judge has misdirected himself by wrongly conflating the remedy with the date on which the FIR was

registered, thus failing to exercise the jurisdiction vested in him. In view of the above, the Order dated 08.09.2025 passed by the learned Additional Sessions Judge-IV/Special Judge (CNS) Malir, Karachi is hereby set aside with direction to decide the Bail Application of the Petitioner on merits in accordance with law within a period of ten days from the date of this Order. The Application stands disposed of accordingly. Let a copy of this Order be communicated to the learned Additional Sessions Judge-IV/Special Judge (CNS) Malir, Karachi.

JUDGE

JUDGE

*Hyder/PS**