

IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.876 of 2025

Present:

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz ul Hassan Shah

Applicant:- Khurrum Kambaiz Shaikh through M/s. Mallag Assa
Dashti and Merrukh Zehri, advocates.

Respondent:- The State through Mr. Musharraf Azhar, Special
Prosecutor ANF.

Date of hearing:- 12.01.2026

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MUHAMMAD IQBAL KALHORO J: Applicant along with other two co-accused namely Akbar Ali and Muhammad Asif was arrested by Anti-Narcotics Force from Uni Plaza, Railway Station Area, Karachi on 20.10.2023 at 1400 hours on spy information and from each of them three Kgs of Ketamine (total nine Kgs) was recovered. Hence, they were booked in the present case.

2. In due time, applicant filed a bail application before this Court which was dismissed with direction to the trial Court to conclude the case in 30 days vide order dated 18.02.2025 in Bail Application No.153/2025. When the direction could not be complied with, the applicant again repeated bail application before this Court after its dismissal by the trial Court which too was dismissed vide order dated 23.09.2025 (Cr. Bail Application No.1889/2025) and again the directions were repeated to the trial Court to conclude the matter in 08 weeks.

3. It appears that again directions were not complied with. But this time, applicant filed a bail application on a fresh ground that meanwhile co-accused had filed a C.P. No.D-6001/2024 before this Court challenging the Notification dated 15.10.2021, whereby Ketamine was included into psychotropic substance and its recovery made a scheduled offence. This petition when came up for hearing before a Constitutional Bench on 02.12.2024, it passed the order directing trial Court to proceed with the trial but shall not pronounce the judgment till disposal of the petition. Yet this Court dismissed the bail application and applicant then went to the Supreme Court and filed a Cr. Petition No.1650/2025 for the

same relief. This petition has been disposed of by the Supreme Court with consent of the parties vide order dated 10.11.2025 remanding the matter to this Court for a fresh decision after considering the stay to pronouncement of judgment in the case granted by the Constitutional Bench.

4. It is in this background we have taken up this matter and heard the parties. Learned defence counsel has submitted that applicant was arrested on 20.10.2023; the trial is completed but due to stay operating in the Constitution Petition, the judgment is not being pronounced and the applicant is in jail for no fault of his own. The Const. Petition has been filed by two co-accused which despite lapse of one year has yet not been decided.

5. Learned Special Prosecutor ANF has opposed the bail and submits that the entire trial is completed and judgment is not being pronounced because of the stay which cannot be considered as a fault of the prosecution.

6. Be that as it may, we are of the view that the stay against pronouncement of judgment is not due to any explicit act of applicant. He has cooperated in the trial, the trial has completed but meanwhile due to filing of petition by two co-accused questioning Ketamine to be the prohibited psychotropic substance, the judgment has been stayed. In the peculiar circumstances, when applicant is in jail for more than two years and the petition filed by two co-accused, despite stay operating since 02.12.2024, has not been decided and there is no prospect that it is likely to be decided in near future. The applicant cannot be allowed to rot in jail for an indefinite period. We, therefore, allow this application, grant bail to the applicant subject to furnishing two sureties of Rs.100,000/- each and P.R. Bond in the like amount to the satisfaction of the trial Court.

The Bail Application is disposed of accordingly. The observations herein above are tentative in nature and shall not affect the case of either party on merits before the trial Court.

JUDGE

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JUDGE

