

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.361 of 2025

Applicant : Nasrullah Shah
through Mr. Naveed Ahmed Baloch, Advocate

Respondent : The State
through Mr. Sarfaraz Ali Mangi, Special
Prosecutor ANF.

Date of short order : 27.03.2025

Date of reasons : 05.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant, Nasarullah Shah, son of Muhammad Usman Shah, seeks post-arrest bail in a case bearing crime No. 50/2024, offence u/s 6/9(1)3(c) of the CNS (Amendment) Act, 2022, following the dismissal of his earlier bail application by the learned Special Court-II, CNS Karachi, vide order dated 25-01-2025.

2. According to the prosecution, on 22-10-2024 at about 2330 hours, an ANF team led by complainant SI Razaf Akhter apprehended the applicant near Quetta Jamali Durrani Hotel, Rainbow Center, Saddar, Karachi, and allegedly recovered two packets of charas weighing 1800 grams, resulting in the registration of the present FIR.

3. At the very outset, learned counsel argued that the applicant has been falsely implicated in the case by the police and that the alleged recovery is fabricated. He emphasized that despite the incident occurring in a crowded, well-populated area, no independent witness was associated with the recovery process. Additionally, there is no photographic or video documentation of the alleged seizure or arrest. He urged, while deciding bail application lesser punishment provided for the offence is to be taken on account and further that since the case has already been challaned, the applicant is no longer needed for custodial investigation. Reliance was placed on judgments reported in 2024 SCMR 934 and 2001 SCMR 14.

4. On the other hand, the learned Special Prosecutor for ANF opposed the bail application, asserting that no mala fide on part of the police has been shown that would suggest the recovery was falsely planted. However, reluctantly agreed that while deciding bail application, lesser punishment is to be taken on account.

5. The recovery is claimed to have been made based on spy information, and no independent witnesses were produced to substantiate it. Moreover, the police did not document the process through video or photographs, contrary to the guidance provided in the Supreme Court's ruling in *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934) to which the defense counsel relied upon. The applicant has remained in custody since the day of his arrest. Furthermore, the seized quantity falls within the borderline category under Section 9(1) of the CNS Act, which prescribes a punishment ranging from nine to fourteen years for possession of over 1000 grams and up to 4999 grams of charas. At the bail stage, the lesser end of the punishment scale is to be considered. The quantum of punishment is subject to the trial court's findings after recording evidence. There is no previous record of criminal involvement on the applicant's part. It is a cardinal principle that an accused is presumed innocent until proven otherwise. In light of these considerations, the applicant's case falls within the ambit of further inquiry as envisaged under Section 51(2) of the CNS Act, read with Section 497(ii) Cr.P.C

6. These are the detailed reasons for the short order dated 27-03-2025, whereby the applicant was granted bail upon furnishing a surety of Rs. 200,000/- (Rupees Two Lacs) along with a personal bond of the same amount to the satisfaction of the trial court. It is clarified that these observations are tentative in nature and will not affect the outcome of the trial on merits.

J U D G E

Shahbaz/PA