

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No. 912 of 2025

Applicant : Ikhtiar Ali son of Rab Dino,  
Through Mr. Naveed Ahmed Baloch, Advocate

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

Date of hearing : 08.05.2025

Date of order : 19.05.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Through the instant bail application, applicant seeks post-arrest bail in a case bearing Crime No. of 45/2024 registered at Police Station ANF Gulshan-e-Iqbal, Karachi offence under Sections 9(1)3(c) & 9(2)(4) of the Control of Narcotic Substances Act, 1997 (as amended by Act XX of 2022). Previously bail of accused was declined by the learned Special Court-I CNS Karachi vide order dated 20.03.2025.

2. As per the prosecution, on the basis of prior information, a raid was conducted by officials of ANF Police Station, Gulshan-e-Iqbal, Karachi, during which the present applicant Ikhtiar Ali was apprehended. Upon his personal search, 1200 grams of Charas and 165 grams of Ice (Methamphetamine) were allegedly recovered from his possession. The recovered contraband was sealed on the spot in presence of mashirs and duly sent for chemical analysis. Consequent upon; case was registered inter-alia on above facts.

3. The prosecution claims that the recovery was lawful, witnessed by official mashirs, and the chemical report has confirmed the recovered substance as narcotics. Two prosecution witnesses have been examined so far, and the Investigating Officer is yet to record evidence. The case is currently under trial before the Special Court (Control of Narcotic Substances), Karachi.

4. Learned counsel submitted that the applicant is innocent and has been falsely implicated in the case. He contended that although the FIR alleges that the applicant was apprehended with 1200 grams of charas and 165 grams of Ice, the veracity of such allegation is doubtful in view of the CDR obtained by the defense, which allegedly places the applicant at a different location at the relevant time. It was argued that this CDR creates a reasonable doubt as to the applicant's presence at the scene of recovery and thus entitles him to the concession of bail. Learned counsel further argued that the CDR, though not part of the police file, is a reliable piece of technological evidence and deserves consideration, especially at the bail stage when only a tentative assessment is to be made. He submitted that the non-inclusion of the CDR in the police investigation ought not to bar the Court from considering it as a fresh ground. He also urged that the continued incarceration of the applicant, in the absence of credible proof of recovery, would amount to punishing him before conviction.

5. Conversely, the learned Special Prosecutor ANF vehemently opposed the bail application on the ground that the first bail application was dismissed on merits and no valid fresh ground has been brought on record. He contended that the CDR relied upon by the applicant has neither been made part of the investigation nor submitted through admissible source or certified process, and therefore cannot be relied upon at this stage. He further submitted that two prosecution witnesses have already been examined and only the Investigating Officer remains to be recorded, hence the trial is proceeding expeditiously. He argued that the alleged recovery pertains to significant quantities of narcotics, attracting the bar contained in Section 51 of the CNS Act, 1997, and the rigors of Section 497(1) Cr.P.C. are fully attracted. Lastly, he relied upon the dictum laid down in *Nazir Ahmed & another v. The State* (PLD 2014 SC 241), to submit that successive bail applications without valid fresh grounds are not maintainable in law.

6. It is an admitted position that this is the second bail application filed on behalf of the applicant, Ikhtiar Ali in this case. The applicant was allegedly found in possession of 1200 grams of charas and 165 grams of methamphetamine (Ice). His earlier bail application was dismissed on merits, and no challenge to that order has been shown to have been made before a superior forum.

7. On a specific query regarding the existence of any fresh ground, learned counsel for the applicant primarily relied upon the CDR, asserting that the CDR does not show the applicant's presence at the place of recovery as alleged in the FIR. However, such contention fails to qualify as a fresh ground within the contemplation of law. The CDR report in question is not part of the investigation record, nor has the applicant produced any source or defense witness to authenticate the CDR or its extraction. In absence of such material forming part of the investigative framework, it is not open for this Court to comment upon its veracity or evidentiary value at the bail stage. Furthermore, the record reflects that two prosecution witnesses have already been examined and only the investigating officer remains to be recorded. No case of hardship, delay, or statutory entitlement under the proviso to Section 497 Cr.P.C. has been made out.

8. In the circumstances, no fresh ground has been established to justify reappraisal of the matter. The bar against second bail application without fresh grounds, as reaffirmed in *Nazir Ahmed & another v. The State* (PLD 2014 SC 241), squarely applies to the present case. Accordingly, the instant bail application being devoid of merit is dismissed. The learned trial Court is hereby directed to conclude the trial preferably within a period of 45 days.

**J U D G E**