

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
C.P No. D-3329 of 2025

DATE

ORDER WITH SIGNATURE OF JUDGE

Hearing

For hearing of main case.

30.07.2025

Mr. Feroz Gul, Advocate for the Petitioner.
Mr. Abrar Ali Kichi, Additional Prosecutor General Sindh.

Zulfiqar Ali Sangi, J. – The petitioners, Mst. Ayesha W/o Muhammad Younus and Mst. Asma W/o Rashid Ali are nominated in **FIR No.465 of 2025** registered at Police Station Malir City for the offence punishable under **Section 9(1)(3)(b), Section 9(1)(3)(c) and Section 9(1)(3)(d)** of CNS (Amendment) Act, 2024. Through the instant petition, the petitioners seek post-arrest bail.

2. Briefly stated, the facts of the prosecution case as per contents of the FIR are that the police party of **P.S. Malir City** headed by **complainant/SI Muhammad Younus** along with other police officials, during patrolling in the area apprehended the accused/petitioners on receiving spy information and recovered 25 grams Ice and 60 grams of crystal from possession of petitioner No.1/Ayesha, whereas, 25 grams of Ice and 60 grams of crystal from possession of petitioner No.2/Asma, hence the aforesaid FIR under the provisions of CNS Act has been registered against them.

3. Learned counsel for the petitioners contends that the petitioners have been falsely implicated in this case and no recovery was affected from them. It is further argued that all the prosecution witnesses are police personnel despite the occurrence having allegedly taken place in a densely populated area. It is submitted that the recovery of ice and crystal has been foisted upon the petitioners with mala fide intentions. The learned counsel has further relied upon the judgment of the Hon'ble Supreme Court in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein bail was granted in a case involving a larger quantity of narcotics.

4. Conversely, learned Additional Prosecutor General opposes the bail petition on the grounds that the chemical examiner's report confirms the recovered substance to be **25 grams of ice** and **60 grams of crystal** each respectively recovered from possession of petitioners 1 and 2. As per the Table under relevant provision of the Control of Narcotic Substances Act, the quantity falls within the third category, attracting a minimum punishment of **one year and a maximum of two years in case of 25 grams of ice and minimum two years and maximum three years in case of 60 grams of crystal**, along with fine. He further contends that the petitioners were apprehended red-handed by the police and the case against them stands fully established; hence, they are not entitled to the concession of bail.

5. We have heard the learned counsel for the parties at length and have examined the record with their able assistance.

6. On tentative assessment of the available material, it is evident that all the prosecution witnesses are police officials, and no independent witness from the locality has been associated, despite the place of arrest being a thickly populated residential area. Moreover, the complainant failed to record any video footage or capture photographs of the alleged search, recovery, or arrest, as emphasized by the Hon'ble Supreme Court in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the Apex Court has held that "*Section 25 of the CNS Act excludes the applicability of Section 103 of the Cr.P.C., 1898; however, there is no justification for the failure of the police or Anti-Narcotics Force to record video footage or capture photographs during search, seizure, or arrest. Article 164 of the Qanun-e-Shahadat Order, 1984, permits the use of modern devices or techniques, and Article 165 overrides any contrary provisions in other laws. The absence of technological evidence often delays trials, leading to multiple bail applications. The use of cameras or mobile phones during such operations can provide corroborative evidence, prevent false accusations, and enhance public confidence in the justice system. Law enforcement agencies are urged to adopt such practices to curb the societal menace of narcotics and facilitate effective prosecution.*"

7. In view of the above discussion and the legal principles laid down in the aforementioned precedent, we are of the considered view that the petitioners have made out a case for grant of post-arrest bail. Consequently, this petition is allowed and the petitioners are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of **Rs.50,000/- (Rupees fifty thousand only) each** and personal bonds in the like amount to the satisfaction of the Nazir of this Court. The petitioners shall ensure their presence before the trial Court on each and every date of hearing without fail.

8. It is clarified that the observations made herein are tentative in nature and shall not influence the trial Court, which shall decide the matter strictly on merits.

9. The instant petition stands disposed of in the above terms.

JUDGE

JUDGE