

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
C.P No. D-3362 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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Hearing
For hearing of main case.

31.07.2025
M/s. Waqas Ali Chaudhry and Saima Nawaz, Advocates for the Petitioner.
Mr. Ali Haider Saleem, Additional Prosecutor General Sindh.

Zulfiqar Ali Sangi, J. – The petitioner, Feroz son of Turab Khan, is nominated in **FIR No.479 of 2025**, registered at Police Station **Gadap City** for the offence punishable under **Section 9(i)(3)(a)** of CNS (Amendment) Act, 2024. Through the instant petition, the petitioner seeks post-arrest bail.

2. Briefly stated, the facts of the prosecution case as per FIR are that the police party of **P.S. Gadap City** headed by **SIP Mumtaz Ali** during patrolling apprehended the two accused persons, who disclosed the name of the present petitioner, as they allegedly purchased the **charas 50 grams each** from him, hence the aforesaid FIR under the provisions of CNS Act has been registered against them.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case and no recovery was affected from him. It is further argued that all the prosecution witnesses are police personnel despite the occurrence having allegedly taken place in a densely populated area.

4. Conversely, learned Additional Prosecutor General opposes the petition by submitting that the chemical examiner’s report confirms the recovered substance (from co-accused) to be **charas**, weighing **50 grams**. As per the Table under the relevant provision of the Control of Narcotic Substances Act, the quantity falls within the third category, attracting a minimum punishment of ten months and a maximum of five years, along with fine. He further contends that the petitioner was joined as an accused on the basis of statement of arrested accused and the case against him stands fully established; hence, he is 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. In the present case 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. Name of the petitioner is not mentioned in the FIR and he was implicated by the arrested accused which statement is not permissible under the law. Moreover, the complainant failed to record any video footage or capture photographs of the alleged search, recovery, or arrest of co-assued, 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 petitioner has made out a case for grant of post-arrest bail. Consequently, this petition is allowed and the petitioner is admitted to post-arrest bail subject to furnishing solvent surety in the sum of **Rs.50,000/- (Rupees Fifty Thousand only)** and a personal bond in the like amount to the satisfaction of the Nazir of this Court. The petitioner shall ensure his 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

Ayaz Gul