

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Cr. Bail Application No. 1995 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGES
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Present:

Mr. Justice Omar Sial

Mr. Justice Miran Muhammad Shah

For hearing of bail application

03.11.2025

Mr. S.M. Zulkufil Hyder, advocate for applicant.

Mr. Musharraf Azhar, Special Prosecutor ANF.

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OMAR SIAL, J.- Acting on spy information, an ANF police party stopped and searched Rashid Sultan Nizami at Jinnah Airport on 13.10.2024, while he was on his way to the Maldives. 502 grams of heroin were found concealed on his body. Nizami was arrested, and F.I.R. No. 77 of 2024 was registered under sections 6 and 9(1) (6) (c) of the Control of Narcotic Substances Act, 1997.

2. The applicant's counsel has significantly stressed the quantity of the narcotics recovered. Apart from that, he has argued that CCTV footage was not obtained; video recording was not made; no private person was called to witness the arrest and recovery; that the quantity recovered was such that the punishment falls within the non-prohibitory clause of section 497; the machine on which the recovered narcotics were weighed was not stated in the F.I.R.; the denomination of currency recovered from the applicant was not stated. He lastly argued that the applicant has been in custody for nine months. The learned Special Prosecutor supported the trial court's dismissal of bail.

3. We have heard the applicant's learned counsel and the learned Special Prosecutor, ANF. Our observations and findings are as follows.

4. The learned counsel's reliance on the Supreme Court in CrI. Petition No. 1192 of 2023 is misconceived. Nowhere in the Order does the Court state that taking video recordings during arrest and recovery proceedings is mandatory. On the contrary, the Court has clearly mentioned that the

Government considers making the requisite amendment to the law to this effect. Further, section 25 of the CNS Act, 1997, excludes the operation of section 103 Cr.P.C., and in many cases, the Supreme Court has clarified that police officers are good witnesses. How the narcotics were weighed, where the weighing machine came from, etc., are questions that require a deeper appreciation of evidence to be answered. Similarly, the fact that the numbers on the currency notes seized are not mentioned in the recovery memo is immaterial at this stage. Equally misplaced is the counsel's argument that the punishment for possessing 502 grams of heroin falls within the non-prohibitory clause of section 497 Cr.P.C. We have looked at the situation leniently and also considered that perhaps because of a mistake, the quantity recovered might fall below the 500-gram mark, thus making the sentence fall within the non-prohibitory clause. Even if this had been the case, we are not inclined to grant bail solely on this account. Keeping the principles laid down in **Tariq Bashir and 5 others vs The State (PLD 1995 SC 34)**, we have treated the recovery of a lethal narcotic like heroin, which has the potential to destroy, not only the user, but his/her entire household, as an exceptional ground to deny the applicant bail. The learned counsel says that his client has been in jail for nine months. Regrettably, for his client, he has not satisfied the basics of pleading bail on statutory delay grounds at this stage.

5. Upon a tentative assessment, the record reflects that the applicant was caught red-handed with 502 grams of heroin taped to his body/belt; the possession of this quantity attracts a penalty of ten to fourteen years; no malafide on ANF's part is evident to foist heroin on the applicant falsely. Indeed, it does seem odd that for no rhyme or reason, ANF would go to the airport, foist heroin on the applicant, and then arrest him. Of course, it will be the trial court that conclusively determines malafide after it has had the opportunity to review the evidence presented to it. We do not see any reason, at this preliminary stage, to admit the applicant to bail.

6. Bail application is dismissed.

JUDGE

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