

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Justice Muhammad Ali Mazhar  
Justice Syed Hasan Azhar Rizvi  
Justice Aqeel Ahmed Abbasi

**Criminal Petition No.104-K of 2025**

(Against the order dated 12.05.2025 passed  
by High Court of Sindh, Karachi, in Crl.B.A.  
No.1007/2025)

Abdul Mateen Mehboob ...Petitioner

**Versus**

The State ...Respondent

For the Petitioner: Mr. Shaukat Hayat, ASC

For the State: Mr. Habib Ahmed, Spl.Prosecutor ANF  
Along with Ms. Shehnaz Fatima,  
Inspector ANF

Date of Hearing: 24.07.2025

**Order**

**Muhammad Ali Mazhar, J.** By means of this Criminal Petition for leave to appeal, the petitioner impugns the order dated 12.05.2025, rendered by learned single Judge of High Court of Sindh, Karachi, in Crl.B.A. No.1007/2025, whereby he was declined the post arrest bail.

2. According to the narrative of prosecution *inter alia* reflected from FIR No.04/2024, dated 16.01.2024, lodged at Police Station ANF, Clifton Karachi under Sections 9, 14, 15 of Control of Narcotic Substances (Amendment) Act, 2022 (CNS Act) that on 16.01.2024 at about 1:30 pm at SAPT Port area, ANF party

headed by Shafiq Ahmed Khan, Inspector ANF, recovered 19 KG Clonazepam 2mg and 4.6 KG Clonazepam 0.5 mg from Container No.BMOU-4619084, which was being exported by M/s Medisure Laboratories Pakistan (Pvt.) Limited Karachi to M/s Medisure Biotech Company, Burma. Two persons were observed standing near the container. One person was Syed Saud Ahmed who introduced himself as Clearing Agent of the container while the petitioner introduced him as an employee of Medisure Laboratories Pakistan Limited and he was implicated in the case.

3. The learned counsel for the petitioner argued that the High Court failed to appreciate that ANF recovered the tablets of drugs manufactured under license yet to be determined whether it falls under category of psychotropic substances or the manufactured drug/medicines. The documents of export/shipment procured by I.O have no nexus with the petitioner, who is neither the exporter nor shipper, clearing agent, financer of the shipment, therefore case against him under Section 9, 14, 15 of CNS Act, requires further inquiry as there is no iota of evidence available to connect him with the commission of alleged offences. According to him, only weight of the alleged narcotic substance is mentioned in the FIR without disclosing the quantity of the packets. It was further argued that the petitioner had no conscious knowledge and possession of the alleged recovered tablets/medicines as the same was ordered by the importer to the exporter without knowledge of the petitioner and the exporter after preparation and arrangement of the consignment, delivered it to the clearing agent for transportation to the KPT on filing of GDs for examination and shipment to the importer at Burma. It was further contended that in the same FIR, the exporter Sajid Abdul Ghaffar has been granted bail by the Special Court-II (CNS) Karachi on 01.03.2025, while the clearing agent was never arrested whereas, the Directors of the manufacturing company, Sheikh Qaiser Waheed and Raheel Qaiser have also been granted

bail by the Special Court-II (CNS) Karachi on 10.04.2025 hence, the learned counsel requests that besides the case of further inquiry, the petitioner is also entitled for the concession of bail keeping in mind the rule of consistency.

4. Though the learned Special Prosecutor ANF argued that some persons have been granted bail in the same crime, their role was different than the role assigned to the present petitioner. However, he did not deny that only consolidated weight of contraband substance is mentioned in the FIR without describing the number of packets of such drugs from the container.

5. We have heard the learned counsel for the petitioner as well as learned Special Prosecutor ANF and have also carefully gone through the available record. The crucial question which needs to be determined whether recovered tablets "Rivotril (Clonazepam)" falls under the category of Schedule of Section 2 (za) of CNS Act, as psychotropic substances for attracting the penal provisions under the said Act. So far as the role of present petitioner is concerned, it also requires to be determined according to the FIR whether he was found standing near the container. The defense is taking the plea that neither the petitioner is exporter, shipper, clearing agent nor the financer of the shipment and he also had no conscious knowledge of alleged recovered tablets/medicines. The exporter and directors of the manufacturing company of drugs have also been granted bail while the clearing/forwarding agent was never arrested. The learned counsel of the petitioner also asserted that alleged recovery of alleged psychotropic substance was recovered without any videography or photography at the spot to show the veracity of the raid and role of the petitioner.

6. At this stage, we feel that the role of the present petitioner requires further probe whether he is involved in the illegal export or not. The rationale of setting the law into motion in criminal cases is to make an accused face the trial and not to punish him

pre-trial or rot him behind bars because every accused is innocent until proven guilty. The basic philosophy of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and in order to ascertain whether reasonable grounds exist or not, the Court should not probe into the merits of the case, but restrict itself to the material placed before it by the prosecution to determine whether tangible evidence is available against the accused. Where, on a tentative assessment, there is a reasonable ground to believe that the case of the prosecution requires further inquiry, then in such circumstances, the benefit of bail may not be withheld as a punishment to the accused. The doctrine of "further inquiry" refers to a notional and exploratory assessment that may create doubt regarding the involvement of the accused in the crime. Whereas, the rule of consistency or doctrine of parity in bail matters encapsulates that where the incriminated and ascribed role to the accused is the same as that of the co-accused, then the benefit extended to one accused should also be extended to the co-accused according to the principle "like cases should be treated alike" after accurate evaluation and assessment of the co-offender's role in the commission of the alleged offence. While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness, and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail, when the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Where, on a tentative assessment, there is a reasonable ground to believe that the case of the prosecution requires further inquiry, in such circumstances, the benefit of bail may not be withheld as a punishment.

7. In the circumstances mentioned above, *prima facie* the learned counsel for the petitioner has been able to make out a case of further inquiry within the ambit of Section 497 Cr.P.C. and, thus, the petitioner becomes entitled to the concession of bail.

Accordingly, this petition is converted into an appeal and allowed. The appellant is admitted to bail in FIR No.04/2024 dated 16.01.2024, subject to furnishing of bail bonds to the tune of Rupees two hundred thousand with one solvent surety in the like amount to the satisfaction of the Trial Court.

8. Needless to observe that any observation made herein is tentative in nature and the Trial Court is at liberty to decide the case on its own merit without being influenced from any observation herein. We are sanguine that the Trial Court may conclude the trial expeditiously and if the appellant or any person on his behalf makes hurdle in conclusion of the trial or the appellant misuses the concession of bail, the prosecution may move application before the Trial Court for cancellation of the bail.

Judge

Judge

Judge

KARACHI  
24.07.2025  
Mudassar  
Approved for reporting