ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Miscellaneous No.108 of 2025

LAL SHAD
Versus
THE STATE

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	04.02.2025.	**Mr. Muhammad Ilyas, Advocate for the petitioner.** **Rana Ali Raza, State Counsel.** **Muhammad Iqbal, S.I, P.S Bani Gala, Islamabad with record.** Through the instant petition, the petitioner seeks post arrest bail in FIR No.493 dated 17.12.2024 under sections 9(1)3c, CNSA, 1997 registered with Police Station Banigala, Islamabad. 2. Brief facts as mentioned in the FIR are that on 17.12.2024 at about 9:00 p.m the police party barricaded Bukhari Chowk New Mill Kurri Road, when a vehicle No.LEA/1769/14Vitz, Color Silver came, in which two persons were sitting. On suspicious the police party stopped the vehicle, the person sitting on the driving seat was wearing white clothes with a blue jacket disclosed his name Lal Shad s/o Shehram Gul r/o Acheti Bala Mera, Tehsil & District Peshawar (petitioner) and the person sitting on the second seat wearing blue clothes with black jacket disclosed his name and

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address as Noor Ali s/o Noor Muhammad r/o Acheti Bala Mera, Tehsil & District Peshawar. On the search of the vehicle, 4 packets of Charas weighing 875.1 grams, 907.2 grams, 825.3 grams and 866.4 grams, total weight 3472 grams was recovered underneath of the second seat. 10 grams Charas were separated from each packet for chemical examination and all legal formalities were completed.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has falsely been implicated in the case; that nothing has been recovered from the possession of the petitioner and the recovery shown by the police is false and there is nothing on record, which connects the petitioner with the commission of the offence and as such case of petitioner is one of the further inquiry; that the petitioner is previously non-convicted; that co-accused has been granted bail by the learned Additional Sessions Judge vide order dated 06.01.2025; that detention of the petitioner in judicial lock up amounts to advance punishment.

4. On the other hand, the learned State Counsel has vehemently opposed the instant bail petition by

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contending that a huge quantity of contraband has been recovered from the petitioner; that there is no mala-fide or illwill on the part of the police to falsely implicate the petitioner in the case.

5. I have heard the argument of learned counsel for the parties and perused the record.

6. Perusal of the FIR reveals that the petitioner was driving Vehicle No. No.LEA/1769/14Vitz, along with the co-accused, who was sitting beside on the second seat. On suspicious the vehicle was stopped and searched by the police, during the search of vehicle Charas weighing 3472 grams was recovered from underneath of the second (front) seat of the vehicle. A substantial quantity of contraband was recovered from the vehicle, which was being driven by the petitioner. Now the law regarding the driver of the vehicle is settled and being in charge of the same all articles lying therein would be under his control and possession, therefore, recovery of 3472 grams Charas from the vehicle directly makes the petitioner responsible being driver of the vehicle and prima facie connects the petitioner with the commission of the offence having conscious knowledge of the

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recovered substance duly witnessed by the police. The offence with which the petitioner has been charged carries a maximum punishment of 14 years and as such falls within the prohibitory clause of Section 497 Cr.P.C.

7. The co-accused, who was granted bail by the learned Additional Sessions Judge was sitting on the second (front) seat of the vehicle, whereas the petitioner was driving the vehicle, therefore, the rule of consistency does not apply in the present case.

8. In matters related to bail, a detailed evaluation of the evidence is not permitted and only a preliminary assessment of the material available on record is to be made. The petitioner has not alleged any mala-fide intent or illwill on the part of the police. Prima facie, the petitioner is connected with the offence. Furthermore, this case does not fall within the scope of section 51 of the CNSA Act, read with section 497 Cr.P.C for the grant of bail.

9. For the reasons discussed above, the petitioner is not entitled for grant of bail, therefore, the instant petition is hereby ***dismissed.***

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10. Needless to mention, the above observations are tentative in nature and shall not prejudice the Trial Court.

(INAAM AMEEN MINHAS)
JUDGE

R.Anjam.

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