

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Cr. B.A No. 94 of 2025

[Bashir Ahmed .....v.....The State]

Date of Hearing : 15.05.2025  
Applicant through : Mr. Ayaz Hussain Tunio, Advocate  
Respondents through : Mr. Agha Abdul Nabi, Special  
Prosecutor, ANF.

## O R D E R

**Miran Muhammad Shah, J:-** The applicant Bashir Ahmed son of Gul Muhammad is seeking bail after arrest in FIR No. 22/2024 lodged under Section 6, 9(1)3e, 14, 15 of CNS Act, at P.S. ANF, Hyderabad, after rejection of his bail plea by the learned Additional Sessions Judge-II, Jamshoro at Kotri, vide order dated 8.11.2024.

2. The allegations against the applicant/accused is that on 28.05.2024 at 0005 hours, he was found in possession of 282 K.g charas which he was carrying in a Toyota Surf vehicle bearing registration No. LEC-15-5534), hence this FIR was lodged.

3. Learned counsel for the applicant premised his case on the argument that co-accused in similar FIR has been granted bail by the learned trial Court vide order dated 30.09.2024, therefore, he is also entitled for concession of bail on the basis of rule of consistency. He next contended that there is delay of 9 days in dispatching the sample of case property for chemical examination and when all above factors combine together leave no room in a prudent mind that the case of applicant/accused requires further probe, therefore, he is entitled for concession of bail. He further contended that nothing has been recovered from possession of the applicant/accused and alleged

recovery has been foisted upon the applicant/accused. He lastly contended that no independent private witness has been cited in the present case which is violation of Section 103 Cr.P.C, hence the applicant/accused is entitled for bail. Learned counsel placed reliance upon 2021 SCMR 1804, 2021 SCMR 324, 2024 SCMR 1571, 2024 SCMR 934 and 2020 SCMR 444.

4. In contra, learned Special Prosecutor, ANF introduced on record that applicant/accused has not only named in the FIR but has been comprehensively described with a role of carrying charas, therefore, he is not entitled for concession of bail. Learned Prosecutor, ANF placed his reliance on 2023 SCMR 2056

5. I have heard learned counsel or the applicant/accused, Special Prosecutor, ANF and perused the material available on record. In most of the Narcotics cases, the bail is granted exceptionally and very restrictedly, where the recovery is huge in quantity and the basic requirement of Narcotic Laws is fulfilled. There is a bar of bail being granted in CNS Act. In the present case, not only a huge quantity of 282 k.g. charas have been recovered but weapons of high caliber have also been part of the recovery. From the bare reading of FIR, it is very clear as agitated by the Special Prosecutor, ANF, two vehicles were escorting each other using the otherwise a regular route through which contrabands are transported for purpose of sell. As per the FIR, the ANF were given a tip that in famous drug dealers Malik Essay Khan and Abdul Latif were known interprovincial smugglers are carrying a huge quantity of contraband would be crossing from the Jamshoro Toll Plaza. From the CNICs it is transpired that all five of them belonged to the upper interconnected districts

of Balochistan Province which is bordering Afghanistan. Such area has become notorious for drug dealers as they easily carry such drugs from Afghanistan and after crossing the border enter into Balochistan and then onward transport to Sindh and its main city of Karachi. The present applicant no doubt was one of the passengers in one of the vehicles from where actual recovery of charas was made. He was also resident of the same area and have perhaps travelled from the infamous poudering districts of Balochistan. Hence his connection with the vehicle cannot be ruled out. The application of Section 103 Cr.P.C for associating public mashirs has already been ruled out in such Narcotics cases. *“Section 103, Cr.P.C. has been specifically excluded under the provisions of Control of Narcotic Substances Act, 1997 and the non-citing of any witness from the public is not fatal to the prosecution case”*<sup>1</sup>. The other case laws submitted by the learned counsel for the applicant/accused can be differentiated from the facts of the present case. The case law of the Hon’ble Supreme Court for performing video taping of the recovery is suggestive in nature and cannot be relied upon at this stage specially when the case of large quantity of charas is involved. Contrary to that, the case law submitted by the prosecutor ANF on the huge quantity recovered from the vehicle which was carrying the applicant/accused was refused bail on the ground that *“nothing could be brought on record by the petitioner to suggest that there is any malice to falsely involve him in the present case”*<sup>2</sup>. In the case in hand, similar is the position as the applicant has not placed any allegation against police for foisting such huge quantity upon the present applicant/accused.

---

<sup>1</sup> Zulfiqar Ahmed v. The State (2006 SCMR 800)

<sup>2</sup> Muhammad Aslam v. The State (2023 SCMR 2056).

In light of such observation after going through the record, I am of the opinion that applicant/accused has not made out a case for bail, hence the present bail is declined. However, since the case has already been challaned and the material witnesses are hardly two to three in number, the learned trial court is directed to proceed with the matter urgently, since the counsel for the applicant/accused has pleaded that one year has been passed and no progress has been made in the trial. In light of such contention, it is expected that the trial should conclude within a period of two months positively.

6. The observation made herein above are tentative in nature and would not prejudice the case of either party.

JUDGE