

IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

Criminal Bail Application No.S-974 of 2025

Applicant : Hamadullah son of Ahmed Khan
through Mr. Muhammad Jameel
Ahmed,

Respondent : The State through Mr. Shehriyar Shar,
Special Prosecutor, ANF

Date of Hearing : 02.10.2025

Date of Order : 02.10.2025

ORDER

Jan Ali Junejo, J.- The applicant, through the instant criminal bail application under Section 497, Cr.P.C., seeks post-arrest bail in case Crime No.25 of 2024 registered at Police Station ANF, Hyderabad, for offences under Sections 6, 9(1)(3)-(d) of the Control of Narcotic Substances Act, 1997. His previous bail plea was dismissed by the learned trial Court on 26.09.2024, and the subsequent bail application bearing Criminal Bail Application No.S-1150 of 2024 was dismissed by this Court *vide* Order dated 13.01.2025, both on merits. The Applicant's plea for third post-arrest bail was also declined by 1st Additional Sessions Judge/ Special Judge CNS Court, Hyderabad *vide* Order dated 12.08.2025.

2. Briefly stated, the prosecution case, as narrated in the FIR, is that on 29.06.2024, a spy informed the complainant/SHO Inspector Dawood Munawar of PS ANF, Hyderabad that accused Hamadullah Soomro would be delivering narcotics to a customer near Railway Gate, Fateh Chowk, Tando Jam Road, Hyderabad. Acting upon the information, a raiding party was constituted and during the course of surveillance, the accused was intercepted while riding a motorcycle without registration number. Upon search, 7 kilograms of charas (cannabis) wrapped in seven packets were allegedly recovered from his possession. Samples were drawn and sealed on the spot in presence of police mashirs and the accused was arrested. Subsequently, the FIR was lodged and the matter investigated.

3. The learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated at the behest of a builder mafia, namely Niaz Panhwar and others, with the connivance of local ANF

officials due to pending civil litigation over property. It is argued that the applicant was picked up from his shop in the morning of 29.06.2024 and subsequently shown arrested with alleged recovery. It is further urged that the wife and daughter of the applicant were wrongly implicated during investigation, but the same were quashed by this Court vide order dated 25.04.2025 in Criminal Misc. Application No. S-622 of 2024, wherein cost was imposed on the Investigating Officer for mala fide. The learned counsel submits that non-association of private mashirs, doubtful recovery proceedings, mala fide of police officials, and delay in trial constitute fresh grounds making the case one of further inquiry under Section 497(2), Cr.P.C. It is further contended that the applicant is behind bars since June 2024, no witness has been examined so far, and the prosecution has failed to conclude the trial within a reasonable time. Lastly, the learned counsel prayed for grant of bail.

4. Conversely, the learned Special Prosecutor ANF opposes the bail application. He submits that this is the fourth successive post-arrest bail application, the earlier ones having been dismissed on merits by the learned Special Judge (CNS) Hyderabad vide order dated 26.09.2024, thereafter this Court vide order dated 13.01.2025 in Criminal Bail Application No. S-1150 of 2024 and now the Applicant has preferred this Criminal Bail Application against the order dated 12.08.2025 passed by 1st Additional Sessions Judge/ Special Judge CNS Court, Hyderabad. It is argued that no fresh ground has been raised which was not available at the time of earlier bail applications. The alleged recovery of 7 kilograms of charas squarely falls within the ambit of Section 9(c) of the Act, attracting the prohibitory clause, and sufficient material connects the applicant with the commission of the offence. Lastly, the learned Special Prosecutor has prayed for dismissal of bail.

5. I have carefully heard the arguments advanced by the learned counsel for the parties and perused the material available on record. It is an admitted position that this is the fourth post-arrest bail application filed by the applicant. His earlier bail plea was dismissed by the learned trial Court on 26.09.2024, while the subsequent Criminal Bail Application No. S-1150 of 2024 was dismissed by this Court vide order dated 13.01.2025, both on merits and his third post-arrest bail was also declined by 1st Additional Sessions Judge/ Special Judge CNS Court, Hyderabad vide order dated 12.08.2025. The law governing successive bail applications is well settled. A second or subsequent bail application may only be entertained if it is based on fresh grounds i.e. grounds which were not available or could not have been placed before the Court earlier. The

applicant has failed to demonstrate the existence of any such fresh ground in the present application. The alleged quashment of proceedings against the applicant's wife and daughter does not constitute a fresh ground for the applicant himself, as the said proceedings were distinct in nature and the applicant did not challenge the order of cognizance against him. Moreover, the quashment order of this Court dated 25.04.2025 did not disbelieve the prosecution's case against the principal accused (the applicant), but merely censured the Investigating Officer for wrongful inclusion of innocent female family members. The recovery of 7 kilograms of charas from the possession of the applicant, as alleged, is a commercial quantity. Unless the applicant shows reasonable grounds for believing that he is not guilty, bail cannot be granted. The plea of mala fide and false implication has been duly considered in the earlier bail applications and rejected. Mere allegation of enmity or pressure from third parties without supporting material cannot outweigh the presumption of truth attached to official acts under Article 129(e) of the Qanun-e-Shahadat Order, 1984. Furthermore, the non-association of private mashirs in narcotics cases is not by itself fatal at the bail stage, especially when the raiding party consisted of ANF officials who are presumed to act lawfully unless proved otherwise. The recovery, sealing, and preparation of memo at the spot have been duly detailed in the FIR and accompanying documents, thus prima facie connecting the applicant with the recovered contraband. As regards delay in trial, the record does not reveal any culpable negligence or deliberate delay attributable to the prosecution. The trial appears to be in progress, and the applicant has not demonstrated any exceptional hardship warranting release on bail on that ground. In a similar situation, the Honourable Supreme Court of Pakistan in the case of ***Dolat Khan v. The State and others (2016 SCMR 1447)*** declined bail to the accused while observing that: *"After hearing the learned counsel for the petitioner, learned ASC appearing on behalf of the ANF and perusing the available record with their assistance, it has been noted by us that petitioner was apprehended along with his co-accused while carrying 2400 grams of Charas and 1200 grams of opium. The petitioner was apprehended at the spot by the raiding party and as per the FIR he himself handed over two Nos. packets containing Charas and opium to the complainant (SI). Learned counsel for the petitioner has not been able to refer to anything from the record which could suggest that the complainant or any other member of the raiding party had any animus against the petitioner. The case of the petitioner falls within the prohibitory clause of section 497 of the Code of Criminal Procedure. In this view of the matter coupled with the fact that huge quantity of narcotics has been recovered from his possession, petitioner is not entitled for the concession*

of bail". In another similar case, **Noor Khan v. The State (2021 SCMR 1212)**, the Honourable Supreme Court declined the concession of bail to the accused while observing that: *"Red-handed with seizure of considerable quantity of the contraband squarely brings petitioner's case within the remit of 'Prohibition, contemplated by section 51 of the Control of Narcotic Substances Act, 1997; his claim of false implication is an issue that cannot be attended without going beyond the barriers of tentative assessment, an exercise prohibited by law. On our own analysis of the record, view concurrently taken by the courts below is not open to any legitimate exception. Petition fails. Leave declined"*.

6. From the tentative assessment of the material available on record, reasonable grounds exist to believe that the applicant is connected with the offence punishable under Section 6, 9(1)(3)-(d) of the Control of Narcotic Substances Act, 1997. The offence carries severe punishment and falls within the prohibitory clause of Section 497(1), Cr.P.C. The applicant has already availed and exhausted his earlier bail remedies, and no fresh ground has been brought forth to justify a different conclusion.

7. For the foregoing reasons, this post-arrest bail application, being devoid of merit, is hereby dismissed. It is further clarified that the observations made herein are purely tentative and shall not prejudice the case of either party during the trial, which shall be decided independently on its own merits. These are the detailed reasons for the short order announced on 02.10.2025.

JUDGE