

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.D-114 of 2026

**PRESENT**

***Mr. Justice Jawad Akbar Sarwana.***

***Mr. Justice Syed Fiaz ul Hassan Shah.***

Applicant: Dadan son of Dhani Bux,  
Through Mr. Abdul Qadir Khoso, Advocate.

Respondent: The State  
Through Ms. Rameshan Oad, D.P.G.

Date of hearing: 20.05.2026

Date of decision: 25.05.2026

## **ORDER**

**Syed Fiaz ul Hassan Shah, J:** The applicant was booked in crime No.47 of 2026 on the allegation police party headed by SIP Muhammad Faiq Jamali during patrolling on 01.03.2026 they came to the Laghari Culvert, Tando Jam Hyderabad and started snap checking of vehicles, they saw two persons coming by a motorcycle from the bypass and a blue colour polythene sack was placed at the tank of motorcycle, on seeing police, they attempted to escape but police apprehended an accused (applicant) at 1400 hours while other seated behind the motorcycle escaped good from the place of wardat, on search police recovered total 04 kilograms Bhang from his possession, hence, this FIR.

2. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. He next contended that applicant was arrested since 01.03.2026 and since then the case has not been proceeded and he is facing incarceration without any fruitful development in the case. He urged that no independent witness was arranged at the time of alleged recovery of the narcotic thereby section 103 was violated; that challan has been submitted before the Trial Court, the applicant is no more required for investigation and there is no apprehension that the applicant is attempting to temper or destroy the prosecution's evidence.

3. Conversely, the learned D.P.G. for the State vehemently opposed the bail application. She argued that the applicant is nominated in the FIR with a specific role and

was apprehended *red-handed* at the spot in possession of narcotics. She further argued that samples were extracted in compliance with Rules 3 and 4 of the CNS (Government Analyst) Rules, 2001. She urged that the video recording of the whole event is available on record.

4. We have heard the learned counsel for the respective parties and perused the available record with their assistance.

5. A tentative perusal of the record indicates that the applicant is charged with the alleged recovery of 04 kilograms of contraband Bhang. Under Section 9(1)(b) of the Control of Narcotic Substances (Amendment) Act 2024, the statutory punishment for this specific quantity carries a maximum sentence of up to 7 years. Consequently, the offense does not fall within the prohibitory clause of Section 497 Cr.P.C. It is a well-settled principle of law, as authoritatively laid down by the Honorable Supreme Court of Pakistan in ***Tariq Bashir v. The State (PLD 1995 SC 34)***, that in offenses falling outside the prohibitory clause, the grant of bail is a rule and its refusal is a rare exception.

6. Regarding the non-association of independent private witnesses from the locality, it is observed that despite the alleged recovery taking place at 1400 hours on a public thoroughfare, the police completely bypassed the mandatory provisions of Section 103 Cr.P.C., rendering the truthfulness of the recovery a matter of further inquiry under Section 497(2) Cr.P.C.

7. As far as technical or electronic evidence is concerned, the learned D.P.G. has heavily relied upon the video recording of the alleged recovery available on the police file. However, it is a well-entrenched principle of law that the authenticity, genuineness, and evidentiary worth of such video recording cannot be evaluated at this stage, as it necessitates a deeper appreciation of evidence. A 'deep-dive' into the electronic nuances or the merits of such recordings is strictly impermissible at the bail stage; these are matters falling within the exclusive domain of the learned Trial Court, to be determined at the time of trial after a full recording of evidence and cross-examination.

8. The investigation is already complete, the challan has been submitted, and the applicant is no longer required for any custodial interrogation. The applicant has remained in custody for the last about three months. It is a well-established "golden principle" of criminal justice that while the conviction of a guilty person may ultimately remedy an erroneous grant of bail, no adequate reparation can ever be afforded to an innocent individual for unjustified incarceration, even if acquittal is eventually secured. This principle, first enunciated in ***Manzoor v. The State (1972 PLD SC 81)***, has been consistently upheld by the Hon'ble Supreme Court. In light of this jurisprudence, the

applicant is accordingly extended the concession of post arrest bail in the sum of Rs.100,000/-, with a P.R. bond in the like amount, to the satisfaction of the learned trial Court.

9. Needless to say that any finding given or the observations recorded herein-above, it is only for the purpose of deciding this bail application, which will not affect the merits of case before the Trial Court in any manner and the Trial Court will try the case without being influenced from any observation.

**J U D G E**

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Ahmed/Pa,

