

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.D-209 of 2026

Present:

Justice Muhammad Faisal Kamal Alam

Justice Tasneem Sultana

Applicant : Shakeel Ahmed through Mr. Saifullah
Soomro, Advocate.

Respondent : The State through Syed Sardar Ali Shah,
Additional Prosecutor General a/w
Inspector Kashif Ali on behalf of SSP,
Sukkur.

Date of Hearing : **11-08-2026**
Date of Order : **03-09-2026**

ORDER

TASNEEM SULTANA, J.- Through the instant Criminal Bail Application, the applicant, Shakeel Ahmed, seeks the concession of post-arrest bail in Crime No.22 of 2025, registered under Section 9(1)(d) of the Sindh Control of Narcotic Substances Act, 2024, at Police Station Narcotics Rohri Circle, Sukkur. The applicant's earlier applications for post-arrest bail were dismissed by the learned Additional Sessions Judge-III/Special Judge CNS, Sukkur, on different occasions. Thereafter, Criminal Bail Application No.S-160 of 2026, filed before this Court, was disposed of vide order dated 04.02.2026, whereby the learned trial Court was directed to conclude the trial within a period of two months. Subsequently, Criminal Bail Application No.1564 of 2026, being the applicant's fifth application for post-arrest bail, was dismissed by the learned III-Additional Sessions Judge/Special Judge CNS, Sukkur, vide order dated 10.07.2026. The applicant has now once again approached this Court through the instant application seeking post-arrest bail.

2. The facts giving rise to the present proceedings have already been set out in detail in the bail application as well as in the FIR; therefore, repetition thereof is considered unnecessary.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. It was argued

that, despite the alleged recovery having been effected at a public place, no private person was associated as a mashir; that the vehicle from which the alleged recovery was effected was not owned by the applicant; and that the Chemical Examiner described the recovered substance as “*dry green coloured broken leaves, seeds and small stalks.*” Learned counsel further submitted that Section 2(d)(ii) of the Sindh Control of Narcotic Substances Act, 2024 expressly excludes seeds and leaves where the same are not accompanied by flowering or fruiting tops. It was, therefore, contended that the recovered substance does not fall within the statutory definition of “*cannabis (hemp)*” under the said Act and is, instead, governed by the Prohibition (Enforcement of Hadd) Order, 1979. On this premise, learned counsel maintained that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Reliance was placed upon the judgment in Ali Hamza v. The State (2022 SBLR Sindh 1142).

4. Conversely, learned Additional Prosecutor General opposed the application and submitted that the applicant was apprehended while driving the vehicle from which 40 kilograms of Bhang/Hemp were recovered. He was the sole occupant of the vehicle at the relevant time. It was further submitted that the Chemical Examiner’s report supports the prosecution case and that the alleged recovery attracts the provisions of Section 9(1)(d) of the Sindh Control of Narcotic Substances Act, 2024. Learned Additional Prosecutor General, therefore, contended that the applicant has failed to make out a case for grant of bail.

5. We have heard the learned counsel for the parties and carefully examined the material available on record.

6. The record shows that, on the day of occurrence, the applicant was apprehended while driving a Vigo vehicle bearing registration No.KP-8077. Upon search of the vehicle, two sacks containing Bhang/Hemp weighing 40 kilograms, along with twenty-four sacks containing Safeena Gutka, were allegedly recovered therefrom. The applicant was the sole occupant of the vehicle. Samples of the recovered substance were secured and forwarded for chemical examination. The Chemical Examiner, upon examination, reported that both samples contained material of Bhang (Hemp).

7. The principal contention of learned counsel for the applicant is that the recovered substance does not fall within the ambit of the Sindh Control of Narcotic Substances Act, 2024 and is, instead, governed by the Prohibition (Enforcement of Hadd) Order, 1979. Since this contention primarily rests upon the statutory definition of “*cannabis (hemp)*,” it would be appropriate to reproduce the relevant provision contained in Section 2(d) of the Act:

“(d) ‘cannabis (hemp)’ means—

(i) the concentrated resin from the flowering tops of female hemp plants (*Cannabis sativa* or *C. indica*) that is smoked, chewed, or drunk for its intoxicating effect, also known as charas, hashish and resin known as hashish oil or liquid hashish;

(ii) the flowering or fruiting tops of the cannabis plant (excluding the seed and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated or known and include all forms known as bhang, siddhi or ganja; and

(iii) any mixture with or without neutral materials of any of the above forms of cannabis or any drink prepared therefrom.”

A plain reading of Section 2(d) shows that cannabis (hemp) has been defined in three forms: firstly, concentrated resin obtained from the flowering tops of the cannabis plant; secondly, the flowering or fruiting tops of the plant, excluding seeds and leaves when not accompanied by such tops, including forms known as bhang, siddhi or ganja; and thirdly, any mixture of the above forms, with or without neutral material, or any drink prepared therefrom. The definition, therefore, should not be read by isolating one part from the others and has to be considered as a whole. Likewise, the Chemical Examiner’s report cannot be assessed merely on the basis of the physical description of the recovered substance; the report has to be considered in its entirety.

8. In the present matter, the Chemical Examiner recorded a positive resin test and, after examination, concluded that both samples contained Bhang (Hemp). The Chemical Examiner’s report does not support the contention that the recovered substance falls outside the definition of “*cannabis (hemp)*” under Section 2(d) of the Sindh Control of Narcotic Substances Act, 2024. The alleged recovery is also of a substantial quantity,

i.e. 40 kilograms of Bhang/Hemp. The case of *Ali Hamza* (supra), relied upon by learned counsel for the applicant, is therefore distinguishable on facts and does not advance the applicant's case.

9. Learned counsel for the applicant has also not pointed out any material suggesting previous enmity, mala fide or any other reason on the part of the complainant or the police officials to falsely implicate the applicant. When this circumstance is considered along with the alleged recovery of 40 kilograms of Bhang/Hemp from the Vigo vehicle bearing registration No.KP-8077 which, according to the prosecution, was being driven by the applicant, no ground for grant of bail is made out on this score.

10. Apart from the merits, the record shows that Criminal Bail Application No.S-160 of 2026, filed by the applicant, was disposed of by this Court vide order dated 04.02.2026 with a direction to the learned trial Court to conclude the proceedings within a period of two months. In order to ascertain the present status of the proceedings, a progress report was called for. The report submitted by the learned III-Additional Sessions Judge/Special Judge CNS, Sukkur, shows that the matter is still pending before the learned Civil Judge & Judicial Magistrate-II, Rohri, on account of proceedings relating to the absconding accused and has not yet been transmitted to the Court of Sessions. The record further shows that the FIR was registered on 23.10.2025, the final report under Section 173, Cr.P.C. was submitted on 03.01.2026, and three accused were shown as absconders.

11. Despite submission of the police report under Section 173, Cr.P.C. on 03.01.2026, the case is still pending before the learned Magistrate because proceedings against the absconding accused have not yet been completed. As a result, the case has not been transmitted to the Court of Sessions for trial. This delay is a matter of concern. The Honourable Supreme Court, in *Muhammad Ramzan v. Rahib* (PLD 2010 SC 585), has directed that where some accused are absconding and others are available for trial, proceedings under Sections 87 and 88, Cr.P.C. should be completed within the shortest possible time and, in any event, not later than two months after taking cognizance. These directions are intended to ensure

that proceedings against absconding accused do not delay the trial of those who are before the Court and must be followed in letter and spirit.

12. The above state of affairs cannot be allowed to continue, particularly where proceedings relating to the absconding accused have resulted in the case remaining at the magisterial stage beyond the period contemplated by the Honourable Supreme Court in *Muhammad Ramzan* (supra). The learned District & Sessions Judge, Sukkur, is, therefore, directed to personally examine the status of such proceedings pending before the learned Magistrates and ensure strict compliance with the directions laid down in the aforesaid judgment. The learned District & Sessions Judge, Sukkur, shall further submit, through the Additional Registrar of this Court, within fifteen days, a report specifying the number of cases arising from police reports submitted under Section 173, Cr.P.C., involving offences triable by the Court of Sessions, which are presently pending before the Magistrates within Sessions Division Sukkur on account of proceedings relating to absconding accused. The report shall also indicate the dates of submission of the final reports, the present stage of each proceeding and the reasons for their continued pendency.

13. In view of the above facts and circumstances, the applicant has failed to bring his case within the ambit of further inquiry contemplated under Section 497(2), Cr.P.C. Consequently, the instant Criminal Bail Application is dismissed.

14. The observations made herein are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

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