

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Crl. Bail Application No.148 of 2025

Date:	Order with signature(s) of the Judge(s)
	01. For orders on office objection “A” 02. For hearing of bail application.

ORDER
16-04-2025

Mr. Habibullah Ghouri, advocate for Applicant.
Mr. Nazir Ahmed Bhangwar, Deputy Prosecutor General for State.

Jan Ali Junejo, J.—This Criminal Bail Application has been directed against the Order dated 13.03.2025, passed by the learned I-Additional Sessions/Special Judge for CNS (MCTC), Larkana, whereby the bail plea of the present Applicant was declined in respect of FIR bearing Crime No. 21 of 2025 registered at P.S. Rehmatpur under Section 9(i)(3)c of the Control of Narcotic Substances Act, 1997.

2. The brief facts of the prosecution case as narrated in the FIR are that on 27.02.2025 at about 1500 hours, ASI Muhammad Rafique Bhangar lodged report alleging that while on patrol duty, on receiving spy information, he and his team intercepted two individuals, namely Hasnain S/o Mitho Karirro (the present Applicant) and one Papan Korai, who were suspected to be in possession of narcotics. Upon encounter, co-accused Papan allegedly fired upon the police and fled, dropping a bag containing 1000 grams of charas. The present Applicant was apprehended, and from his possession 2000 grams of charas, concealed around his waist, was allegedly recovered. Recovery and arrest memos were prepared, and contraband sealed on the spot. The Applicant has remained behind bars since his arrest on the same day.

3. Learned counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated due to personal enmity with the local police. He submitted that all witnesses are police officials and no private or independent mashir was associated in the recovery proceedings, despite the area being thickly populated. Learned counsel further argued that the police failed to record any video footage of the recovery, in violation of the mandatory provisions of Section 17(2) of the CNSA, as emphasized by the Honourable Supreme Court. He emphasized that the alleged recovery is doubtful, that no prior criminal record is attributed to the Applicant, and that the quantity recovered, though considerable, is not of a commercial scale under settled judicial interpretations. Lastly, learned counsel prayed for grant of post-arrest bail.

4. Conversely, the learned D.P.G. vehemently opposed the bail plea and submitted that the recovery of 2000 grams of charas from the present Applicant attracts the prohibitory clause and reflects the seriousness of the offence. He argued that the recovery is fully supported by the memo, sealed property, and the statements of the police officials who acted as mashirs. It was contended that the provisions of the CNS Act require strict application, bail should not be granted liberally in narcotics cases. He further argued that no malafide or enmity with the police has been substantiated and prayed for the dismissal of the application.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the record with their able assistance. Prima facie, it is alleged that 2000 grams of charas was recovered from the Applicant. However, the entire case of the prosecution rests upon police witnesses, who are admittedly subordinates of the complainant officer, and

no independent person was associated in the process despite availability. Furthermore, it appears that the police, though acting on prior information, failed to record any video or photographic evidence of the alleged arrest and recovery, which casts a doubt on the genuineness of proceedings, particularly in light of binding observations of the Honourable Supreme Court in Case of *Zahid Sarfraz Gill v. The State (2024 SCMR 934)*. The prosecution has not explained why such safeguards were not adhered to, even after having advance knowledge. The report of the chemical examiner is still awaited, and the Applicant has remained in custody since 27.02.2025. It is also notable that in the connected FIR for sections 324, 353, and 34 PPC, the Applicant has already been granted bail by the same Court. There is no allegation of the Applicant being armed or resisting arrest. The applicability of section 9(i)(3)c CNSA requires careful assessment at trial; at this stage, the case of the Applicant requires further inquiry within the meaning of Section 497(2) Cr.P.C. The possibility of false implication due to prior enmity, as claimed, cannot be ruled out at this tentative stage. It is also borne out from the record that the Applicant is a first-time offender with no previous criminal history to his discredit. He was arrested on 27.02.2025 and has remained incarcerated since then, while the trial is yet to commence and its conclusion does not appear to be forthcoming in the near future. In such circumstances, continued detention of the Applicant would serve no useful purpose; hence, he is found entitled to the concession of bail at this stage.

6. In view of the foregoing, this Court is of the considered opinion that the Applicant has made out a case for grant of post-arrest bail. Consequently, the Applicant Hasnain S/o. Mitho Karirro is hereby

admitted to bail in the sum of Rs.2,00,000/- (Rupees Two Hundred Thousand Only) with one surety and a personal recognizance bond in the like amount to the satisfaction of the learned Trial Court.

7. The above observations are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE