

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Cr. Bail Appln. No. S-633 of 2025

Applicant	:	Mst. Firdous d/o Mansoor Hakro
		Through M/s Haji Khan Soomro & Asghar
Ali Mahar		Advocates
 The State	 :	 Through Mr. Muhammad Farooque Ali Jatoi, Special Prosecutor ANF
Date of Hearing	:	18.08.2025
Date of Decision	:	27.08.2025

ORDER

Khalid Hussain Shahani, J.— Applicant Mst. Firdous seeks post arrest bail in a case bearing crime No. 15/2025, offence under Sections 6, 9(1), 3(e), 14 and 15 of the Control of Narcotic Substances Act, 1997 (as amended 2022), registered at Police Station ANF Sukkur. Prior to this, her bail plea was declined by the Court of learned Additional Sessions Judge-I/MCTC, Sukkur vide order dated 08.05.2025.

2. Concisely, facts of the prosecution of case are that on 16.04.2025 on spy tip, Inspector Naseer Ahmed of P.S ANF Sukkur along with sub-ordinate staff at City By pass Highway intercepted in presence of LPC Aisha Naz and PC Rashid, the applicant and co-accused Khalida, Shehla and Saleema possessing two Kilograms Charas each; such memo of arrest and recovery was prepared. Consequent upon; the case was registered *inter alia* on above facts.

3. Learned counsel contends that the applicant is a juvenile, to whom the protective regime of the Juvenile Justice System Act, 2018 applies; that her medical condition necessitates ongoing treatment unavailable in prison; that no independent civilian mashirs were associated at the time of seizure in violation of Section 103 Cr.P.C.; and that the minimum prescribed sentence of nine years does not engage the prohibitory clause of Section 497(1) Cr.P.C., making bail a rule rather than an exception. He relies on case laws cited at 2024 SCMR 934, 2025 SCMR 721 & unreported order in Constitutional Petition No.D-729 of 2025.

4. Learned Additional P.G. records no objection to bail but urges that the offence is serious, non-bailable by statute, and that large quantity of charas mandates deterrence.

5. We have heard learned counsel and perused record. It is an admitted fact that two kilograms of charas were allegedly recovered from the applicant. Under the CNSA (Amendment) Act, 2022, the punishment for the alleged offence “may extend to fourteen years, but shall not be less than nine years.” The minimum punishment of nine years falls below the ten-year threshold of Section 497(1) Cr.P.C. and thus does not attract the prohibitory clause. It is settled principle of law that where the minimum prescribed sentence is below ten years, the grant of bail is the rule, and its refusal the exception.

6. The applicant’s juvenile status invokes the Juvenile Justice System Act, 2018. The Supreme Court unequivocally directed that juvenile offenders must be treated with a rehabilitative, non-punitive approach and that bail should be liberally granted to juveniles unless exceptional circumstances exist. The seizure was effected at a busy public place without any private mashirs, in breach of Section 103 Cr.P.C., undermining the credibility of the prosecution’s case. In Muhammad Abid Hussain Vs. The State (2025 SCMR 721), procedural irregularities in narcotics recoveries were held to create substantial doubt, justifying bail even at the initial stage. Moreover, in Zahid Sarfaraz Gill Vs. The State (2024 SCMR 934), the Supreme Court affirmed that where a case hinges solely on police testimony and procedural lapses like non-production of video recording, the benefit of doubt must go to the accused at bail stage.

7. The applicant suffers from chronic kidney disease requiring regular dialysis and medication. The unreported decision in D-729 of 2025 granted bail to an under-age female narcotics accused to secure medical care and preserve her well-being, underscoring that constitutional guarantees of life and dignity (Articles 4 and 9) demand accommodation of medical exigencies in bail determinations. Gender considerations in that order further reinforce the principle that female juveniles must not be subject to harsh custodial conditions.

8. In view of the minimum punishment below ten years, juvenility, procedural infirmities, medical exigency, and gender-sensitive considerations, the applicant has made out a strong prima facie case for bail. The learned trial court is capable of safeguarding the interests of justice through appropriate conditions without depriving the applicant of her fundamental right to liberty.

Consequently, instant application is allowed and the applicant, Mst. Firdous, is admitted to bail subject to furnishing solvent surety in sum of Rs.200,000/- (Two Hundred Thousand) along with P.R Bond of like amount to the satisfaction of the learned trial court. The above assessments are tentative in nature and shall not effect the merits of trial.

JUDGE