

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail application No.S-1070 of 2025

Applicant : Mst. Sohana w/o Sajjad through Mr. Alamgir Malik, advocate.

Respondent : The State, through Ms. Safa Hisbani, Assistant Prosecutor General, Sindh.

Date of hearing : **03.10.2025**
Date of order : **03.10.2025**

ORDER

TASNEEM SULTANA, J.- Through this bail application, the applicant Mst. Sohana seeks post arrest bail in Crime No.116 of 2025, under Sections 9 (i) 3 (b) The Sindh Control Of Narcotic Substances Act, 2024 (SCNSA), registered at PS Phuleli, Hyderabad, after her post arrest bail application was declined by the learned Additional Sessions Judge-II/Special Judge CNS, Hyderabad, vide order dated 25.08.2025.

2. It is alleged that on 10.07.2025 police party of PS Phuleli headed by SIP Manzoor Hussain apprehended applicant/accused from Good Road near Jameel Hotel on being found in possession of 502 grams Charas contained in a black shopper under memo of arrest & recovery prepared in presence of LPC Almas and PC Aslam Masih; for that she was booked in the aforementioned FIR.

3. Learned counsel for the applicant contended that the applicant/accused is innocent and has been falsely implicated by the complainant; that the alleged place of arrest and recovery is a thickly populated area, yet no private person was associated to witness the alleged proceedings; that the applicant/accused has no criminal record, hence foisting of narcotics upon her on account of police enmity is evident; that except for the version of the police, there is no independent material to connect the applicant/accused with the commission of the alleged offence; that the complainant relied solely on his subordinate staff and failed to associate private witnesses, which weakens the prosecution case.

4. Conversely learned APG opposed the instant bail application and contended that applicant/accused is nominated in FIR and 502 grams Charas has been recovered from her exclusive possession; No malafide on the part of police for false implication of applicant/ accused has been established. The FIR

has been registered promptly and property has been dispatched to the laboratory for analysis within time.

5. Heard and record perused.

6. The applicant has been indicted for having a black color polythene bag in her hand wherein one piece of Charas found wrapped in yellow color paper weighing 502 grams was recovered. Fleeting view of the record, more particularly, the FIR & memo of recovery shows that Charas was weighed with polythene bag including yellow wrapper which was found to be 502 grams, thus prosecution has failed to show that if the polythene bag & wrapper of "Charas" is separated than what would be the net weight of the Charas, as such it would be a case of further inquiry as to whether the recovered Charas squarely falls under Section 9 (1) 3 (a) or under Section 9 (1) 3 (b) of SCNS Act, 2024, and in order to determine quantum of punishment as well as to find out as to clause of Section 497 CrPC or otherwise.

7. In the light of the above it can be gathered that present case is between Section (a) and (b) of Section 9 (1) (3) of SCNS Act 2024 as the weight is slightly higher than prescribed limit of Section 9 (1) (3) (a). Admittedly, Section 9 (1) (3) (b) does not fall within the prohibitory clause of Section 497 CrPC, which entitles the accused/applicant for the concession of bail on the principle that bail in the offences of non-prohibitory clause is a rule, whilst its refusal is an exception. In this regard I am fortified with the view expounded in the case of *Aya Khan versus The State (2020 SCMR 350)*, *Tariq Bashir and others versus The State (PLD 1995 Supreme Court 34)* and *Muhammad Tanvir Vs. State (PLD 2017 Supreme Court 733)*.

8. Corollary the instant bail application is allowed and consequent thereto, accused/applicant Mst. Sohana w/o Sajjad is admitted to bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (One hundred thousand rupees) and P.R. Bond in the like amount to the satisfaction of the trial Court.

9. The observations made hereinabove are tentative in nature which shall not influence the trial Court at the time of trial.

JUDGE

Irfan Ali