

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

Criminal Bail Appln. No. S-163 of 2025

Muhammad Awais

VERSUS

The State

SINDH HIGH COURT

Composition of Bench Before **Mr. Justice Muhammad Saleem Jessar**

Single/D.B.

Dates of Hearing: 21.04.2025

Decided on: 21.04.2025

(a) Judgment approved for
Reporting

~~YES~~
~~NO~~ 21.4.25

C E R T I F I C A T E

Certified that the judgment / Order is based upon or enunciates a principle of law / decides a question of law which is of first impression / distinguishes/ over-rules/ reverses/ explains a previous decision.

Strike out whichever is not applicable.

NOTE: - (i) This slip is only to be used when some action is to be taken.

(ii) If the slip is used. The Reader must attach it to be the top of the first page
Of the judgment.

(iii) Reader must ask the Judge writing the Judgment whether the Judgment is
Approved for reporting.

(iv) Those directions which are not to be used should be deleted.

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Cr. Bail Application No.5-163 of 2025

Date	Order with signature of Judge
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1. For orders on office objection.
2. For hearing of Bail Application.

Applicant : Muhammad Awais Makrani,
through Mr. Muhammad Afzal Jagirani,
Advocate.

The State : Through Mr. Ali Anwar Kandhro,
Additional Prosecutor General, Sindh.

Date of hearing : 21.04.2025.
Date of order : 21.04.2025.

ORDER

Muhammad Saleem Jessar, J.- By way of instant application, applicant Muhammad Awais son of Abdul Qayoom Makrani Baloch seeks his release on post arrest bail in Crime No.10 of 2025 registered at P.S Ghouspur, District Kashmore at Kandhkot, for offence under Section 9(c) of CNS, Act, 1997 (duly amended in the year 2022). The applicant filed bail before the Court below, which by way of order dated 17.03.2025 was declined; hence, this application.

2. According to the case of prosecution, on 07.03.2025, at about 4.30 p.m., a police party of Ghouspur Police Station under the supervision of complainant ASI Shoukat Ali Bangulani, during patrolling, apprehended accused Muhammad Awais near Darri Stop situated on Indus Highway Road and was found in possession of Charas weighing 1100 grams lying in a black shopper, together with two currency notes of Rs.100/- and four of Rs.50/-, total Rs.400/-, from the side pocket of his shirt. To such effect, instant FIR was registered on behalf of the State.

3. Learned Counsel for the applicant submits that the applicant belongs to Baloch Parra, near SLD Cotton Factory, Mirpurkhas, wherefrom he was apprehended by SHO PS Gharibabad of Mirpurkhas on 05.03.2025; therefore, his brother namely Ayoub filed an application u/s 491, Cr.PC (Cr. Misc. Appln. No.60/2025) before the Court of Sessions Judge, Mirpurkhas; however, upon the surprise visit paid by Civil Judge & JM-III, Mirpurkhas the applicant was not found confined at PS Gharibabad of Mirpurkhas and such application was dismissed by way of order dated 08.3.2025 and later the applicant was booked by the SHO PS Ghouspur in this crime. Learned Counsel next submits that actually the applicant has been made victim by his in-laws, having residence in Kashmore District, over the matrimonial issues. As far as alleged contraband is concerned, according to learned Counsel, same has been foisted upon the applicant by the police at the behest of his in-laws and further that the quantity shown recovered from his possession being 1100 grams is a meager one; hence, requires further enquiry.

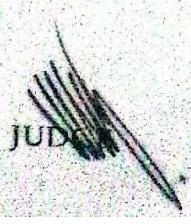
4. On the other hand, Learned Addl. P.G., after going through the record, does not oppose the application in hand.

5. It is an admitted fact on record that the brother of applicant, namely, Ayoub had filed an application u/s 491, Cr.PC before the Court of Sessions Judge, Mirpurkhas, alleging illegal detention of applicant at PS Gharibabad of Mirpurkhas; however, the same was dismissed due to non-recovery of the applicant in the raid conducted by the Magistrate. One thing more shocking is the SHO PS Gharibabad, Mirpurkhas, had produced copy of instant FIR before the Court of Sessions Judge, Mirpurkhas on 08.03.2025 and on the basis of said FIR, the application u/s 491, Cr.PC moved by his brother was dismissed. Now question arises how the SHO PS Gharibabad knew that applicant was arrested by Ghouspur police, meaning thereby the SHO PS Gharibabad had taken away him and then handed over-shifted his custody to SHO PS Ghouspur, who subsequently implicated the applicant in this case by foisting contraband. Hence, the defence plea is quite reasonable and carries weight. It is quite surprising that a person hailing from

Mirpurkhas town was booked by SHO PS Ghouspur, which stations at quite different part of the province; hence, it does not apply to a prudent mind that a person, who has no previous CRO can travel such a long distance along with meager quantity of contraband. The documentary evidence adduced reflects that the police have extended their helping hand to the opponents of the applicant and thereby involved him in this false case by foisting contraband upon him. No independent person is shown to have witnessed the alleged recovery, though the place of recovery viz., Darri Stop is said to be busy area of Ghouspur town. Further, the police also failed to make video recordings/take photographs of the search, seizure and arrest, as observed by the Hon'ble Supreme Court in the reported case of *Zahid Sarfaraz Gill v. The State (2024 SCMR 934)*. The applicant is in jail since the date of his arrest. Section 9(1) of the Act provides punishment with imprisonment up-to fourteen years and not less than nine years for possessing, importing, or exporting and trafficking 'charas' in contravention of Sections 6, 7 and 8 of the Act, for more than 1000 grams and up-to 4999 grams in quantity. It is settled principle of law that at bail stage lesser punishment is to be considered. The quantum of punishment could only be decided by the trial Court after recording pro and contra evidence at trial. No previous record showing involvement of the applicant in any crime of the like nature has been placed. In such circumstances, the case of the applicant in my humble view squarely falls within the purview of further enquiry, as contemplated by Section 51(2) of the Act, read with Section 497(2), Cr.P.C.

6. Accordingly and in view of above, instant bail application is allowed. Resultantly, applicant Muhammad Awais Makrani is directed to be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and P.R. Bond in the like amount to the satisfaction of learned trial Court.

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



JUDGE