

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.D-186 of 2025

PRESENT

Mr. Justice Jawad Akbar Sarwana.

Mr. Justice Syed Fiaz ul Hassan Shah.

Applicant: Usama son of Ubaidullah,
Through Mr. Zafar Ali Laghari, Advocates.

Respondent: The State
Through Mr. Altaf Hussain Khokhar, D.P.G for State

Date of hearing: 15.04.2026
Date of decision: 22.04.2026

ORDER

Syed Fiaz ul Hassan Shah, J: The applicant was booked in Crime No. 314 of 2025 registered at P.S. Hatri on the allegation that police party headed by SIP Imam Dino Shah during patrolling on 03.10.2025 near New City Pathan Goth at about 1200 hours, on suspicion, stopped silver colour Corolla car No.BVA-845 and on search recovered three big pieces of charas wrapped in golden foil marked as "2024 Gumnam 2025" on each piece and on spot recovered 1510 grams charas from applicant/accused Usama and from co-accused Saeed Khan police recovered 1515 grams charas. Thereafter, the arrested accused and the recovered property were brought at Police Station, where an FIR was registered against present applicant/accused Usama, however, a separate FIR was lodged against co-accused Saeed Khan.

2. It is inter-alia contended by the counsel for applicant that applicant/accused is innocent and has falsely been involved in this case. He further contended that police has registered two FIRs of the same incident i.e. crime No.314 of 2025 against present applicant/accused and the other bearing crime No.315 of 2025 against co-accused Saeed Khan for the alleged recovery hence, registration of two FIRs of the same incident violates the Hon'ble Supreme Court's Judgment reported in *2018 PLD 595 Re: Mst. Sughran Bibi vs the State* even in the there is no reference of the USBs or proceeding of video recording during personal search or recovery; that despite spy information and sufficient time the police failed to arrange any independent witness for the alleged recovery thereby section 103 was violated; that no video recording as required under Section 17(2) of

Sindh CNS Act 2024 as well as article 164 and 165 of the Qanun-e-Shahadat Order: that no buyer or seller's information disclosed or determined during course of investigation; that challan has been submitted before the Trial Court, the applicant is no more required for investigation and there is no apprehension that the applicant is attempting to temper or destroy the prosecution's evidence.

3. On the other hand, the learned D.P.G for the Sate opposed the bail application on the grounds that the applicant was nominated in the FIR and the narcotic charas was recovered from his exclusive possession and it is well recognized judicially that if, the private person does not come forward to act as mashir and/or witness the incident the evidence of a police official is admissible under Articles-3, 17, 71 of the Qanoon-e-Shahadat Order, 1984 as well as the dictums laid down by the Hon'ble Supreme Court in the various cases; that video recording is saved in USB and mentioned in the challan therefore, the applicant is not entitled for concession of bail at this stage.

4. We have heard the learned counsel for the parties and perused the record.

5. It appears from the record that memorandum of recovery and FIR are silent with regard to the video recording; however, in the challan sheet the column of case property, prosecution has mentioned that the video recording is save in USB but even in the challan it has not been claimed by the prosecution that video proceedings was carried out during personal search, raid and alleged recovery of the narcotic contraband. We observed that video recording during Recovery proceedings in Narcotics cases is a statutory duty which is codified under Section 17(2) of the Sindh CNS Act, 2024. The Hon'ble Supreme Court has consistently held in several judgments that video recording and photography are mandatory during the recovery of narcotics and such principles consistently laid down in *Muhammad Abid Hussain vs. The State and another* (2025 SCMR 721) and *Zahid Sarfaraz Gill vs. The State* (2024 SCMR 934). Surprisingly, these protocols were not followed in the present case. We further observe that while the Raiding Police party allegedly recovered 1515 grams of charas from the co-accused and 1,510 grams from the present applicant under a joint memo, two separate FIRs were registered for the same incident in violation of the principles settled in *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595), wherein the Hon'ble Supreme Court conclusively held that only one FIR shall be registered in respect of an occurrence. These deficiencies bring the matter within the purview of "further inquiry" under Section 497(2) Cr.P.C.

6. The applicant is in custody for last above six months. It is a well-established "golden principle" of criminal justice that while the conviction of a guilty person may ultimately remedy an erroneous grant of bail, no adequate reparation can ever be afforded to an innocent individual for unjustified incarceration, even if acquittal is eventually secured. This principle, first enunciated in ***Manzoor v. The State*** (1972 PLD

SC 81), has been consistently upheld by the Hon'ble Supreme Court. In light of this jurisprudence, the applicant is accordingly extended the concession of post arrest bail in the sum of Rs.200,000/-, with a P.R. bond in the like amount, to the satisfaction of the learned trial Court.

7. Needless to observe that any finding recorded herein-above are tentative in nature for the purpose of deciding this bail application, and the trial Court will not be influenced with it and will try the case in accordance with law.

J U D G E

J U D G E

Ahmed/Pa.