

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No. D-108 of 2026

Before;

*Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Abdul Hamid Bhurgri.*

Applicant : Afaqe Ahmed alias Afaqe S/o
Muhammad Akat alias Akat, Kalhoro
through M/s Shabbir Ali Bozdar and Aaraf
Soomro, Advocates

The State : Through Mr. Shafi Muhammad Mahar,
Deputy P.G for State.

Date of Hearing : **03.06.2026**
Date of Order : **03.06.2026**

ORDER

Abdul Hamid Bhurgri J.- The applicant, Afaqe Ahmed alias Afaqe son of Muhammad Akat alias Akat, seeks post-arrest bail in Crime No.92 of 2026, registered at Police Station Moro, District Naushahro Feroze, for an offence punishable under Section 9(i), Schedule 3(c) of the Sindh Control of Narcotic Substances Act, 2024, as amended by the Sindh Control of Narcotic Substances (Amendment) Act, 2025, after dismissal of his post-arrest bail application by the learned Sessions Judge/Special Judge for CNS Cases, Naushahro Feroze, vide order dated 10.04.2026.

2. Briefly stated, the prosecution case is that on 02.03.2026 at about 2:30 a.m., complainant ASI Ali Akbar lodged the F.I.R., alleging that while he, along with his subordinate staff, was conducting snap checking at Main Road near Jamal Phattak, one person approached from the city side and was intercepted on suspicion. It is alleged that due to the non-availability of private mashirs, PC Tariq Rasool and PC Israr Solangi were appointed as mashirs. Upon personal search of the suspect, charas allegedly wrapped around his waist in a piece of cloth was recovered and taken into possession. On inquiry, the apprehended person disclosed his identity as Afaqe son of Akat Kalhoro, resident of Hazoori Peer, Moro, and allegedly stated that he was engaged in the sale of charas. The recovered charas was weighed and found to be 1100 grams, out of which 100 grams were separated as sample, while the remaining quantity was sealed at the spot. Thereafter, the accused along with the recovered

contraband was brought to the police station, where the present F.I.R. was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in this case. He argued that despite the alleged recovery having been effected at a place accessible to the public, no independent private mashir was associated with the recovery proceedings. He further submitted that the alleged charas has been foisted upon the applicant at the instance of certain influential persons of the locality. Learned counsel further contended that, except for one case of similar nature bearing Crime No.238 of 2025 registered at the same police station, the applicant has no previous criminal record and that the facts and circumstances of the case call for further inquiry.

4. Conversely, learned Deputy Prosecutor General opposed the bail application and submitted that the applicant is specifically nominated in the F.I.R., that 1100 grams of charas was recovered from his exclusive possession, and that the recovered contraband was duly sealed at the spot. According to him, sufficient material is available connecting the applicant with the commission of the alleged offence and, therefore, he is not entitled to the concession of bail.

5. We have heard learned counsel for the parties and examined the material available on record. Admittedly, the alleged recovery of 1100 grams of charas falls within the prohibitory clause of the law. However, at the bail stage, the Court is required only to tentatively assess whether reasonable grounds exist for believing that the accused is guilty of the offence charged or whether the case calls for further inquiry. The record reflects that the alleged recovery was effected at a place accessible to the public, yet no independent private person was associated with the recovery proceedings and only police officials have been cited as mashirs. Although non-association of private witnesses is not by itself sufficient to discard the prosecution case, nevertheless, in the peculiar facts and circumstances of the present case, it constitutes a circumstance requiring deeper appreciation of evidence during trial. The applicant is stated to be involved in one other case of similar nature registered

at the same police station; however, no material has been placed before this Court to indicate any previous conviction. Furthermore, the investigation has already been completed, the applicant is in judicial custody, and no further recovery is required to be effected from him. In these circumstances, the question as to whether the prosecution would ultimately be able to establish the charge against the applicant can only be determined after recording evidence at the trial. Reliance in this regard may be placed on the case of **Muhammad Abid Hussain v. The State and another (2025 SCMR 721)**.

6. In the cumulative effect of the circumstances discussed above, and without expressing any opinion on the merits of the case, we are of the tentative view that the case of the applicant calls for further inquiry within the contemplation of Section 35(2) of the Sindh Control of Narcotic Substances Act, 2024, as amended by the Sindh Control of Narcotic Substances (Amendment) Act, 2025. Consequently, the applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court.

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

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