

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No. D-121 of 2026

Before;

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Abdul Hamid Bhurgri.

Applicant : Muhammad Ibrahim S/o Dur Muhammad Pathan, through Mr. J.K Jarwar, Advocate.

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, Muhammad Ibrahim son of Dur Muhammad Pathan, seeks post-arrest bail in Crime No.41 of 2026, registered at Police Station Faiz Ganj, District Khairpur Mir's, 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, Khairpur Mir's, vide order dated 06.05.2026.

2. Briefly stated, the prosecution case is that on 04.04.2026 at about 10:00 p.m., complainant Inspector Irshad Ali Rajper lodged the F.I.R., alleging that while he, along with his subordinate staff, was on patrol duty and reached the road leading from Akri to Zafarabad near Wehi Wah Bridge, they noticed a person carrying a black shopper in his hand on the southern bank of Wehi Wah. Upon seeing the police party, he allegedly attempted to flee but was apprehended along with the shopper. It is alleged that due to the non-availability of private mashirs, PC Sikander Ali Shar and PC Ghulam Nabi Shar were appointed as mashirs of recovery. On inquiry, the apprehended person disclosed his identity as Muhammad Ibrahim son of Dur Muhammad Pathan, resident of Kandiyari, Taluka Faiz Ganj. The shopper allegedly recovered from his possession was found to contain 2000 grams of charas, which was sealed at the spot. Thereafter, the applicant 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 no independent private mashir was associated with the alleged recovery despite the place of arrest being accessible to the public. He further submitted that 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 2000 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 2000 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. Furthermore, despite the alleged recovery having been effected by a police party during patrol duty, no video recording of the recovery proceedings has been brought on record. Though absence of video recording by itself may not be fatal to the prosecution case, yet at this tentative stage it is another circumstance which would require deeper appreciation of evidence during trial. The applicant is stated to have no previous criminal record and no material to the contrary has been brought on record. 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.100,000/- (Rupees One Hundred 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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