

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No. D-145 of 2026

Before;

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Abdul Hamid Bhurgri.

Applicant : Imdad alias Hyder S/o Zameer Gadehi,
through Mr.J. K Jarwar, Advocate

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

Date of Hearing : **09.06.2026**
Date of Order : **09.06.2026**

ORDER

Abdul Hamid Bhurgri J.- The applicant, Imdad alias Hyder son of Zameer Gadehi, seeks post-arrest bail in Crime No.82 of 2026, registered at Police Station Halani, District Naushahro Feroze, for an offence punishable under Section 9(i), Schedule 3(b) 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 20.05.2026.

2. Briefly stated, the prosecution case is that on 13.05.2026 at about 09:00 a.m., complainant ASI Ghulam Muhammad lodged the F.I.R., alleging therein that while he, along with his subordinate staff, was on patrol duty and reached Pir Chhatro, Halani Town, they noticed a person standing alongside the road who, upon seeing the police party, allegedly attempted to escape but was apprehended. It is alleged that due to the non-availability of private mashirs, PC Fida Hussain and PC Loung Khan were associated as mashirs of arrest and recovery. On inquiry, the apprehended person disclosed his identity as Imdad alias Hyder son of Zameer Gadehi. During his personal search, a sky-coloured shopper allegedly wrapped inside his banyan was recovered, containing one large and three small pieces of charas. The recovered substance was weighed and found to be 630 grams. After completing the necessary formalities, the recovered contraband was sealed and subsequently sent for chemical analysis. 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 been falsely implicated in the present case. He submitted that although the alleged recovery was effected during daytime from a place accessible to the public, no independent private mashir was associated with the recovery proceedings. He further argued that the quantity allegedly recovered from the applicant does not fall within the prohibitory clause of Section 497(1), Cr.P.C. Learned counsel 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 named in the F.I.R.; that 630 grams of charas was recovered from his possession; and that the recovered contraband was duly sealed and sent for chemical examination. According to him, sufficient material is available connecting the applicant with the commission of the alleged offence; 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 quantity of charas allegedly recovered from the possession of the applicant is 630 grams. The offence, therefore, does not fall within the prohibitory clause of Section 497(1), Cr.P.C. It is a settled principle of law that where an offence falls outside the prohibitory clause, grant of bail is a rule and refusal thereof is an exception, unless exceptional circumstances exist warranting denial of such concession.

6. A tentative assessment of the record further reveals that the alleged recovery was effected during daytime from a place stated to be accessible to the public. Despite this, no independent private person was associated with the recovery proceedings and only police officials have been cited as mashirs. Though such omission alone may not be sufficient to discard the prosecution case, it nevertheless remains a circumstance requiring deeper appreciation during trial.

7. The applicant is stated to have no previous criminal record and no material to the contrary has been brought on record. The investigation has already been completed, the applicant is in judicial custody, and no further recovery is required to be effected from him. Nothing has been brought on record to suggest that, if released on bail, he is likely to abscond or tamper with the prosecution evidence. Whether the prosecution ultimately succeeds in establishing the charge against the applicant is a matter which can only be determined after recording of evidence before the learned trial Court. Reliance in this regard may be placed upon **Muhammad Abid Hussain v. The State and another (2025 SCMR 721)**.

8. In the cumulative circumstances of the case, and without expressing any opinion on the merits of the matter, we are of the tentative view that the case of the applicant calls for further inquiry within the meaning 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 instant bail application is allowed and the applicant, Imdad alias Hyder son of Zameer Gadehi, 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.

9. The learned trial Court shall proceed with the trial expeditiously and make every endeavour to conclude the same preferably within a period of three months from the date of receipt of this order, without granting unnecessary adjournments to either side except for reasons to be recorded.

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

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