

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**Cr. Bail Application No.D-140 of 2026.***[Noor Hussain Vs. The State]*Present:**Mr. Justice Jawad Akbar Sarwana.****Mr. Justice Syed Fiaz ul Hassan Shah.**

Applicant : Noor Hussain **through** Mr. Saeed Ahmed Janwari, Advocate.

Respondent : The State **through** Mr. Khalid Hussain Lakho, Deputy Prosecutor General, Sindh.

Date of Hearing : 19.05.2026.

Date of Decision : 25.05.2026.

ORDER

Syed Fiaz ul Hassan Shah, J :- The Applicant above-named seeks post-arrest Bail in F.I.R No.77/2026, registered at Police Station Kotri, District Jamshoro, for offences punishable under Section 9-1 (3) (b) Sindh CNS Act, 2024. Previously, he applied for the same relief before the learned Additional Sessions Judge-I/MCTC, Jamshoro through Bail Application No.421 of 2026 but the request was declined vide order dated 10.04.2026.

2. Concisely, the facts of the prosecution case, as per FIR, are that on 23.02.2026 police party of PS Kotri, District Jamshoro headed by ASI Muhammad Ismail Mallah during patrolling duty with subordinate staff apprehended the accused, Noor Hussain, near wall of TTC College Rikshaw Stop at about 0200 hours. A polythene bag was found in his possession containing charas weighing one large piece of charas total 940 grams. Due to the absence of private witnesses, police officials were appointed as mashirs. Hence, this case.

3. Learned counsel for the applicant/accused states that as per the contents of the FIR and memorandum, recovery proceedings were carried out under the light of torch due to lack of lightening. He further contended that the false case has been registered against the applicant/accused, who

is innocent; that the applicant/accused is Janwari by caste and he has been implicated with the consultation of Piyaro Janwari and H.C Muhammad Ashraf Janwari, who is also one of mashir in this case; that there is family dispute between Piyaro Janwari and applicant/accused; that prior to this FIR, on 22.02.2026, police officials illegally entered into the house of applicant/accused and forcibly kidnapped the applicant/accused and such video was also recorded by one neighbor from roof of house; that the applicant/accused has falsely been implicated due to family dispute with one Piyaro Janwari; that no private person has been associated as mashir despite the alleged place of recovery is populated area, where private mashir can be arranged easily; that the case of the applicant/accused is one of further inquiry and the applicant/accused may be admitted to bail.

4. On the other hand, learned Deputy Prosecutor General, opposed the Bail Application and stated that the applicant/accused was arrested on spot and a contraband char was recovered from his exclusive possession. He finally submitted that the applicant/accused is not entitled for concession of bail; therefore, bail plea may be declined.

5. Heard learned counsel for applicant/accused as well as learned Deputy Prosecution General and perused the record.

6. It appears from the contents of the FIR and mashirnama of arrest and recovery that the alleged recovery proceedings were conducted under the light of a torch due to absence of proper lighting at the place of incident. It appears that some family dispute going on between applicant and one Piyaro Janwari and his close relative Ashraf Janwari is mashir of the recovery. It has further been asserted that prior to registration of the present FIR, on 22.02.2026, police officials had allegedly entered into the house of the applicant/accused and forcibly abducted him, and such incident was allegedly recorded by a neighbour through video from the rooftop of the house. The offence is outside the limb of prohibitory clause of Section 497 Cr.P.C where it is settled law that in non-prohibitory case, grant of bail is right and refusal is an exception. Further, the prosecution has not shown any apprehension that in case, the applicant is released on

bail he shall influence the prosecution witnesses or may damage the evidence. In such circumstances, the possibility of the applicant tampering with the prosecution evidence appears to be remote.

7. The principle of bail rests on the reasonableness of each case, assessed on its own merits through a tentative evaluation. Courts recognize that if an accused is ultimately acquitted after a lengthy trial, criminal law provides no remedy or compensation for prolonged incarceration without proven guilt. Thus, keeping an accused in custody indefinitely until trial conclusion serves no fruitful purpose. Since statutes do not adequately address such long detention except through bail, Superior Courts have developed the doctrine of "tentative assessment," ensuring that bail decisions are made by weighing the facts and circumstances of each case individually.

8. In view of above, the present applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) and P.R Bond in the like amount to the satisfaction of learned trial Court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

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