

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Faisal Kamal Alam
Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1711 of 2026

Applicant : Najab Khan S/o Ghazi Khan
through Ms. Noreen Naz, Advocate

Respondent : The State
through Mr. Ali Anwar, Addl. P.G.
Sindh

Date of hearing : 01.07.2026

Date of order : 01.07.2026

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.178/2026 registered under Sections 9(i)3(a) of the Sindh Control of Narcotics Substances Act, 2024 of PS Sharafi Goth, Karachi, after his bail plea has been declined by the learned Judge, Special Court/Sessions Court, Malir, Karachi vide order dated 11.05.2026.

2. The detailed facts of the case are already available in the bail application as well as FIR, therefore, the same need not to be reproduced hereunder.

3. Learned counsel for the applicant primarily contended that the applicant is innocent and has been falsely implicated in the present case. It was argued that the alleged recovery of narcotics from the possession of the applicant amounts to only 140 grams, which does not attract the prohibitory clause contained in Section 497, Cr.P.C. Learned counsel further submitted that, despite having prior information, the prosecution neither associated any private person as a mashir nor produced any video recording of the alleged

recovery, which, according to her, constitutes a clear violation of Section 103, Cr.P.C., as well as Section 17(2) of the Sindh Control of Narcotic Substances Act, 2024. She further contended that the applicant has remained behind bars for more than three years and is no longer required for any further investigation. On these premises, she prayed for the grant of post-arrest bail to the applicant.

4. Conversely, the learned Additional Prosecutor General, Sindh, vehemently opposed the grant of bail and contended that the applicant was apprehended at the spot and charas was recovered from his possession; therefore, he is not entitled to the concession of bail.

5. We have heard the learned counsel for the parties at considerable length and have carefully examined the material available on the record.

6. A perusal of the record reveals that on the day of the incident, the complainant, SIP Ghulam Mustafa, along with other police officials, was on routine patrol in Police Mobile No. SPG-093 within the territorial limits of Malir when they received spy information that three persons were present in a narrow and congested street. Upon noticing the police party, the suspects allegedly attempted to flee. However, while one of them succeeded in making good his escape, the remaining two persons were apprehended at the spot and disclosed their names as Muhammad Ramzan and Najab Khan (the present applicant). Thereafter, during the personal search of the present applicant, a brown shopping bag was allegedly recovered from his possession containing ten packets of charas weighing, in aggregate, 140 grams, along with cash amounting to Rs.900/-.

7. Insofar as the contention of the learned counsel for the applicant regarding the prosecution's failure to produce any video recording of the alleged recovery of narcotics is concerned, the same prima facie carries substance and warrants due consideration. Section 17 of the Sindh Control

of Narcotic Substances Act, 2024 has been enacted with the avowed object of ensuring transparency, fairness and accountability in the conduct of raids, searches, seizures and arrests carried out under the Act. For facility of reference, Section 17(2) of the said Act is reproduced hereinbelow:

“Video recording of all raids, seizures, inspections and arrests shall be made by the officer in charge of such operation.”

8. A perusal of the record reflects that 140 grams of charas was allegedly recovered from the possession of the applicant/accused, who has remained in judicial custody for the last two months; however, no meaningful progress has been made in the trial proceedings. The question regarding the quantum of sentence, if any, shall be determined at the conclusion of the trial, subject to the prosecution successfully establishing its case against the applicant/accused. The alleged offence carries a maximum punishment of five years' imprisonment and a minimum sentence of ten months, and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. It is a settled principle of law that grant of bail is the rule and its refusal is an exception. The learned Additional Prosecutor General has failed to point out any exceptional circumstance warranting the denial of bail to the applicant/accused.

9. Furthermore, all the prosecution witnesses are police officials and, therefore, there appears to be no likelihood of the applicant tampering with the prosecution evidence. The prosecution has also failed to place on record any material to indicate that the applicant/accused is a previous convict or is involved in any other case of a similar nature. At the bail stage, the Court is required to make only a tentative assessment of the material available on record, and a deeper appreciation of the evidence is not permissible.

10. In the aforesaid circumstances, the case of the applicant/accused falls within the ambit of further inquiry as contemplated under subsection (2) of Section 497, Cr.P.C. Consequently, the learned counsel for the applicant has succeeded in making out a case for the grant of post-

arrest bail. Resultantly, the instant bail application is allowed, and the applicant/accused is admitted to 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.

11. 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 on merits.

JUDGE

JUDGE

Kamran/PS