

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

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

Criminal Bail Application No.1020 of 2026

Applicant : Zarwali Khan S/o Jans Khan
through Mr. Rehman Ghani, Advocate

Respondent : The State
through Mr. Musharraf Azhar, Special
Prosecutor ANF

Date of hearing : 10.07.2026

Date of short order : 10.07.2026

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.26/2024 registered under Section 6, 9(1)3(e) of CNS Act, 1997 (Amended Act, 2022) of PS ANF Gulshan-e-Iqbal, Karachi, after his bail plea has been declined by the learned Judge, Special Court-I (CNS), Karachi vide order dated 12.03.2026.

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 mainly contended that he has filed the instant bail application purely on statutory delay ground as the FIR was registered in year 2024 and since then no progress is made in the trial and the applicant is behind the bars for about two years. He further argued that the applicant or his counsel has been attending the trial on each and every date and the delay is entirely on the part of prosecution which can be verified from the progress report submitted by the trial Court; as such, this inordinate and unexplained delay squarely entitles the applicant to the concession of bail under the settled

principles of law. He further argued that huge quantity of contrabands has been shown to recover from the applicant but the same is foisted upon him as all the prosecution witnesses are ANF officials which constitutes a clear violation of Section 103, Cr.P.C. In support of his contention, he has relied upon the cases reported as (1) Shakeel Shah vs. The State and others (2022 SCMR 1), (2) Zahid Sarfaraz Gill vs. The State (2024 SCMR 934) and Order passed in Criminal Bail Application No.1540 of 2025 by the Division Bench of the this Court.

4. Conversely, the learned Special Prosecutor, ANF, vehemently opposed the grant of bail and contended that a huge quantity of charas was recovered from the applicant/accused and that the offence carries a maximum punishment of imprisonment for life. He further submitted that two prosecution witnesses have been examined and two are yet to be examined and the case is now fixed on 14.07.2026 when he will ensure attendance of remaining two witnesses. Finally, he prayed for dismissal of the instant bail application.

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 careful perusal of the record reveals that on 11.07.2024, acting upon prior spy information conveyed through the superior officers, the complainant, SI Asad Ali, accompanied by the raiding party, proceeded to the Karachi Bus Terminal situated near Al-Asif Square, Sohrab Goth, where the applicant was allegedly found standing beside eight cardboard cartons and was apprehended. It is the prosecution's case that, despite sincere efforts, no private individual consented to act as a mashir; consequently, members of the raiding party were associated as mashirs of the recovery and arrest. Upon search of the aforesaid

cartons, 72 packets of charas, allegedly concealed inside cable rolls, were recovered, each packet weighing 600 grams, making a total of 43.200 kilograms. Necessary samples were drawn at the spot and sealed separately, while the remaining contraband was sealed into bulk parcels in accordance with the prescribed procedure. It is further alleged that during the personal search of the applicant, his CNIC, cash amounting to Rs.2,500/-, a mobile phone, a bus ticket, and other personal belongings were also recovered and taken into possession.

7. Learned Special Prosecutor, ANF, further submitted that out of the total prosecution witnesses, two have already been examined, whereas the remaining two witnesses are scheduled to appear on the next date of hearing, i.e., 14.07.2026, for recording of their evidence. This submission finds support from the progress report dated 04.07.2026 submitted by the learned trial Court, which reflects that the charge against the present applicant was framed on 07.03.2026. Thereafter, the evidence of PW/ASI Asif Shah was recorded on 09.04.2026, while the statement of PW/PC Saeed Ahmed was recorded on 01.07.2026. The remaining two prosecution witnesses are yet to be examined, for whose attendance non-bailable warrants have been ordered to be issued through the Director General, ANF, Islamabad, for the hearing fixed on 14.07.2026. Since the trial has substantially progressed and is now at the verge of its conclusion, the appropriate course would be to direct the learned trial Court to conclude the trial within a stipulated period. The reliance is placed in the case of **Rehmatullah v. The State (2011 SCMR 1332)**; wherein the Hon'ble Supreme Court of Pakistan has held that:

“3. Heard. The petitioner was granted bail on 21-11-2008, which was cancelled by the learned High Court on 19-3-2009, when according to

the order itself the trial was at the verge of conclusion. Learned Additional Prosecutor-General stated that now only one or two witnesses are yet to be recorded. The courts should not grant or cancel bail when the trial is in progress and proper course for the courts in such a situation would be to direct the learned trial Court to conclude the trial of the case within a specified period. Reference may be made to Haji Mian Abdul Rafique v. Riaz ud Din and another (2008 SCMR 1206). We find that the impugned order was passed in violation of the law, therefore, we cannot subscribe to it. In view whereof, we are persuaded to allow this petition and direct the learned trial Court to conclude the trial of the case expeditiously.

4. For the foregoing reasons, present petition is converted into appeal, allowed and bail granting order dated 6-4-2009, passed by this court, is confirmed. However, learned trial Court is directed to conclude the trial of the case within a period of two months from the date of receipt of copy of this order.”

8. Furthermore, the prosecution case reflects that **43.200 kilograms** of Charas were allegedly recovered from the possession of the applicant/accused. Samples of the recovered contraband were duly forwarded to the office of the Chemical Examiner, and the report received therefrom confirms the presence of Charas. Learned counsel for the applicant has failed to point out any material available on the record suggesting that the complainant or any member of the raiding party harboured any enmity, mala fide, or ulterior motive against the applicant so as to falsely implicate him in the present case. In these circumstances, particularly having regard to the exceptionally large quantity of narcotics allegedly recovered from the possession of the applicant, he is not entitled to the concession of bail. Reliance, in this regard, is placed upon the judgment of the Hon'ble Supreme Court of Pakistan in *Dolat Khan v. The State and others* (2016 SCMR 1447).

9. Moreover, the alleged offence is punishable with imprisonment for life and, therefore, squarely falls

within the prohibitory clause of Section 497 of the Code of Criminal Procedure, 1898.

10. In view of the foregoing discussion, this Court is of the considered opinion that the learned counsel for the applicant has failed to make out a case warranting the grant of bail under subsection (2) of Section 497, Cr.P.C. Consequently, the instant bail application was **dismissed.**

11. Learned Special Prosecutor ANF is directed to ensure the attendance of remaining prosecution witnesses before the learned trial Court on the date fixed. Upon their production, the learned trial Court shall record their evidence without unnecessary delay and thereafter proceed with the trial on a day-to-day basis. No adjournment shall be granted to either party except for exceptional and unavoidable reasons. The learned trial Court is further directed to conclude the trial expeditiously and decide the same, preferably within a period of **sixty (60) days**, strictly in accordance with law.

12. The case-laws relied by the learned counsel for the applicant are distinguishable from the facts and circumstances of the present case; therefore, the same are not applicable in this case.

13. 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.

14. These are the reasons of our short order dated 10.07.2026.

JUDGE

JUDGE