

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. D – 177 of 2026

(Bhisham Lal versus The State)

Cr. Bail App. No. D – 180 of 2026

(Raam Kumar versus The State)

Before:

Mr. Zulfiqar Ali Sangi, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **21.07.2026**

Date of decision : **21.07.2026**

Mr. Ajeebullah Junejo, Advocate for applicant in Cr. Bail App. No. D-177 of 2026.

Mr. Ghulam Murtaza Korai, Advocate for applicant in Cr. Bail App. No. D-180 of 2026.

Syed Sardar Ali Shah Rizvi, Additional Prosecutor General.

ORDER

Arbab Ali Hakro, J. – Through these bail applications, applicants / accused Bhisham Lal S/o Om Parkash and Raam Kumar s/o Chaman Das seek post-arrest bail in Crime No.112 of 2026, registered at Police Station Pano Akil, District Sukkur, under Section 9(1), Sr. No. 3(b) of the Sindh Control of Narcotic Substances Act, 2024. Since both applications arise out of the same crime, the same are being decided through this common order.

2. The prosecution case, as reflected from the FIR, is that on 13.05.2026 at about 0950 hours, complainant ASI Khalique Dino along with subordinate staff, while on patrolling duty, allegedly apprehended both applicants near the graveyard of Peer Ahmed Sultan, Ghurio Phatak, Sabal Khan Dharejo link road, and recovered 500 grams charas from each of them. It is alleged that recovery proceedings were conducted on the spot, samples were separated and sealed, whereafter FIR was lodged on behalf of the State.

3. Learned Counsel for the applicants contended that the applicants are innocent and have falsely been implicated in the present case. They argued that the alleged recovery was effected at a public place, however, no independent person was associated as *mashir* or witness. Learned Counsel also questioned the competency of the complainant being ASI in view of the provisions of Section 17(1) of the Sindh Control of Narcotic Substances Act,

2024. It was further argued that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. They further added that the lesser punishment prescribed by law is to be considered at the bail stage which is five years in the present matter. They also contended that the applicants are no more required for investigation and there is no apprehension of their abscondence or tampering with prosecution evidence.

4. Conversely, learned Additional P.G. opposed the grant of bail on the ground that the applicants were arrested on the spot and contraband substance weighing 500 grams each was recovered from their possession. He submitted that recovery proceedings were conducted in accordance with law, video recording was prepared, the property was sent for chemical examination and the prosecution witnesses have supported the case during investigation.

5. Heard the learned Counsel for the parties and perused the record.

6. The record reflects that the alleged recovery was effected from a public place; however, admittedly no independent person was associated as *mashir* despite the alleged recovery having taken place during daytime. Although the prosecution has relied upon police officials as witnesses of recovery, at the bail stage the absence of independent corroboration at a public place is a circumstance which cannot be ignored, particularly when the entire case rests upon official witnesses.

7. The contention regarding competency of the complainant also requires consideration. Section 17(1) of the Sindh Control of Narcotic Substances Act, 2024 prescribes the requirement of an authorized officer for conducting proceedings under the Act. Whether the complainant ASI Khalique Dino was duly authorized in terms of the statutory requirement is a matter which requires determination during trial and, at this tentative stage, cannot be conclusively resolved against the applicants.

8. The prosecution has relied upon video recording of the alleged recovery proceedings. However, the evidentiary value of such recording, its continuity, authenticity and forensic verification are matters to be examined during trial. Mere availability of a video clip at the investigation stage cannot by itself remove all doubts unless its evidentiary worth is established in accordance with law.

9. The alleged recovery from each applicant is 500 grams charas. Section 9(1), Sr. No. 3(b) of the Sindh Control of Narcotic Substances Act, 2024 provides punishment which may extend to nine years but shall not be less than five years. It is a settled principle that where a statute provides two punishments, the lesser punishment is to be considered at the bail stage. Even otherwise, keeping in view the punishment prescribed under the said provision, the offence does not fall within the prohibitory clause of Section 497(1), Cr.P.C.

10. It is also worth mentioning that the alleged recovered quantity from each applicant is 500 grams of charas, which is a borderline quantity under the relevant Schedule of the Sindh Control of Narcotic Substances Act, 2024. Admittedly, the quantity up to 499 grams falls within the lower category, whereas the alleged recovery of the applicants has been shown as 500 grams, placing the case at the threshold of the higher category. At the bail stage, where a difference of only one gram changes the statutory classification and consequences, the prosecution is required to establish through unimpeachable evidence that the exact recovered quantity was correctly weighed and maintained throughout the process. This aspect, coupled with other circumstances available on record, also requires consideration while examining the case within the scope of further inquiry under Section 497(2), Cr.P.C.

11. It is also pertinent to note that the alleged incident took place on 13.05.2026, whereas, admittedly, the samples of the recovered substance were received at the Chemical Laboratory for analysis on 18.05.2026. Although the prosecution has explained that the property was sealed at the spot and thereafter sent for chemical examination, however, the delay of about five days in forwarding the samples, at the bail stage, requires consideration in the context of safe custody and safe transmission of the alleged contraband. The prosecution would be required to establish during trial that throughout the intervening period, the recovered property remained intact and that there was an unbroken chain of custody. At this tentative stage, the said aspect also adds to the circumstances requiring further inquiry within the meaning of Section 497(2), Cr.P.C.

12. The cumulative effect of non-association of independent *mashirs* at a public place, the question regarding competency of the complainant, tentative nature of video evidence, delay in forwarding samples, borderline

nature of alleged quantity and applicability of the principle regarding lesser punishment collectively brings the case within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.

13. So far as criminal record of the applicants is concerned, CRO has been produced in respect of applicant Bhisham Lal, showing registration of four cases under different provisions, namely Section 3/4 PEHO, Sections 452, 504, 506(2) PPC, Section 8 Sindh PM Act and another case under Section 3/4 PEHO. However, no case under the Sindh Control of Narcotic Substances Act has been shown against him. In respect of applicant Raam Kumar, one case under Section 8 Sindh PM Act has been reflected, but no case under CNS Act is shown. Such record, by itself, does not disentitle the applicants from the concession of bail in the present matter.

14. The applicants are behind bars and the Investigating Officer has already completed substantial part of investigation. The prosecution has received the chemical report, and the applicants are no longer required for further investigation. There is no material on record to suggest that the applicants are likely to abscond or tamper with prosecution evidence.

15. In view of the above discussion, we are of the tentative view that the applicants have succeeded in making out a case for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, both the applicants, namely Bhisham Lal S/o Om Parkash and Raam Kumar S/o Chaman Das, are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.1,00,000/- (*Rupees One Lac only*) each with P.R. bond in the like amount to the satisfaction of the learned trial Court.

16. The observations made hereinabove are purely tentative in nature and shall not prejudice either party during trial.

Both these bail applications stand **disposed of** in the above terms. Office to place a signed copy of this order in the captioned connected matter.

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