

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Cr. Bail App. No. D – 82 of 2026

(Zahid Hussain and another versus The State)

Before:

Mr. Zulfiqar Ali Sangi, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **22.07.2026**

Date of decision : **22.07.2026**

Mr. Mumtaz Ali Brohi, Advocate for the applicants.

Mr. Nazir Ahmed Bhangwar, Deputy Prosecutor General, Sindh.

ORDER

Arbab Ali Hakro, J. – Through the instant criminal bail application, applicants / accused, namely Zahid Hussain son of Peer Bux Veesar and Wasib Ali alias Wasif Ali son of Habibullah Veesar, seek post-arrest bail in Crime No.12 of 2026, registered at Police Station Gerello, District Larkana, for the offence punishable under Section 9(1), Sr. No.3(c) of the Sindh Control of Narcotic Substances (Amendment) Act, 2025 (**‘the Act’**).

2. As per the prosecution case set out in the FIR, on 24.03.2026 at about 1830 hours, complainant ASI Mumtaz Ali Abro, accompanied by subordinate police officials while on routine patrolling duty, allegedly intercepted the applicants at PARCO Pipeline Road near Khokhar Curve within the jurisdiction of Police Station Gerello. It is alleged that one black plastic shopper was recovered from the possession of applicant Zahid Hussain containing 1005 grams of charas, whereas another plastic shopper allegedly recovered from applicant Wasib Ali contained 1010 grams of charas. Necessary formalities of sealing and sampling were stated to have been completed at the spot, a video of the proceedings was allegedly prepared and preserved in a USB device, whereafter the applicants were arrested and the present FIR was registered on behalf of the State.

3. Learned Counsel for the applicants argued that the applicants are innocent and have been falsely implicated owing to previous hostility arising out of a matrimonial dispute with their relatives, who are influential persons and on whose behalf the police booked them in this false case. He submitted

that the alleged recovery was shown to have been effected from a public place during evening hours, yet no independent witness from the locality was associated with the proceedings and only subordinate police officials of the complainant were cited as *mashirs*. Learned Counsel further questioned the competence of the complainant, being an ASI, to initiate proceedings under the Act, in view of Section 17(1) thereof. He also pointed out that there was delay in dispatching the samples to the chemical examiner, thereby creating doubt regarding the safe custody and transmission of the alleged contraband. Lastly, it was submitted that the applicants are no longer required for investigation and there is no likelihood of their absconding or interfering with the prosecution evidence.

4. Conversely, learned DPG opposed the application and maintained that the applicants were apprehended at the spot with narcotic substance exceeding one kilogram each. He contended that the recovery proceedings were carried out strictly in accordance with law, the recovered substance was duly sealed, samples were forwarded for chemical examination, the report confirmed the recovered substance to be charas and the recovery proceedings were also video-recorded in compliance with the statutory requirements. According to learned DPG, sufficient material is available connecting the applicants with the commission of the alleged offence, which falls within the prohibitory clause.

5. We have heard the learned Counsel for the parties and have carefully examined the available record.

6. The record prima facie reflects that the alleged recovery was effected from a public road. Although the prosecution has explained that private *mashirs* were unavailable, yet the recovery is alleged to have been made on a public place where the possibility of associating independent persons cannot altogether be ruled out. At the present tentative stage, the entire recovery proceedings rest exclusively upon the statements of police officials subordinate to the complainant, which is a circumstance requiring cautious consideration while examining the question of bail.

7. The submission regarding the competency of the complainant also deserves tentative consideration. The complainant admittedly holds the rank

of ASI. Whether he was duly authorized to perform functions contemplated under Section 17(1) of the Act is a question which requires evidence and proper interpretation of the relevant statutory provisions during trial. At this stage, such issue cannot be conclusively determined against the applicants.

8. The prosecution has also relied upon a video recording of the alleged recovery proceedings. Undoubtedly, such material may lend support to the prosecution case; however, the evidentiary value, continuity, authenticity and compliance with the applicable legal requirements are matters which can only be examined after recording of evidence. At the bail stage, the mere existence of such recording is not by itself sufficient to exclude every possible doubt.

9. It is also an admitted position that the recovered samples were forwarded to the Chemical Examiner after about two days of the alleged recovery. Although the prosecution asserts that the property remained duly sealed during the intervening period, nevertheless, the prosecution would still be required to establish at the trial that the recovered narcotic substance remained in safe custody throughout and that the chain of possession remained intact without any possibility of interference. This aspect also calls for consideration while tentatively assessing the prosecution case.

10. The alleged recoveries from the applicants are 1005 grams and 1010 grams of charas respectively, attracting Section 9(1), Sr. No.3(c) of the Act. Although the alleged offence is punishable with imprisonment which may extend to fourteen years but shall not be less than nine years, the prohibitory clause, by itself, does not create an absolute bar to the grant of bail. It is by now well settled that even in offences falling within the prohibitory clause, where the material available on record gives rise to circumstances warranting further inquiry within the contemplation of Section 497(2), Cr.P.C., the concession of bail may be extended. The gravity of the accusation alone cannot constitute the sole ground to refuse bail where the prosecution case otherwise calls for deeper examination during trial.

11. The cumulative effect of the absence of independent *mashirs* despite alleged recovery from a public place, the question regarding the complainant's statutory competence and the tentative evidentiary status of

the alleged video recording creates sufficient grounds requiring further probe during the course of trial. At this stage, these circumstances cannot be ignored and bring the matter within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C.

12. It is also significant that the applicants have remained behind bars, investigation has substantially been completed and the chemical examiner's report has already been received. There is nothing on record to suggest that the applicants are still required for any further investigation or that, if released on bail, they would abscond or tamper with the prosecution evidence.

13. For the foregoing reasons, we are of the tentative opinion that the applicants have succeeded in making out a case for grant of post-arrest bail. Consequently, the instant criminal bail application is **allowed** and the applicants, namely Zahid Hussain son of Peer Bux Veesar and Wasib Ali alias Wasif Ali son of Habibullah Veesar, are **admitted to bail** subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) each together with P.R. bond in the like amount to the satisfaction of the learned trial Court.

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

The bail application stands **disposed of** in the above terms. These are the reasons of our short order dated 22.07.2026.

J U D G E

J U D G E

Abdul Basit