

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail App. No. D – 136 of 2026

(Mohbat Ali Kaleri versus The State)

Before:

Mr. Zulfiqar Ali Sangi, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **23.07.2026**

Date of decision : **23.07.2026**

Mr. Amanullah G. Malik, Advocate for the applicant.

Syed Sardar Ali Shah, Additional Prosecutor General.

ORDER

Arbab Ali Hakro, J. – Through the instant criminal bail application, applicant / accused, namely Mohbat Ali son of Zanwar Muhammad Ali Kaleri, seeks post-arrest bail in Crime No.96 of 2026 registered at Police Station Kandiaro, District Naushahro Feroze, for offence punishable under Section 9(1), Sr. No.3(c) of the Sindh Control of Narcotic Substances Act, 2024, as amended by the Sindh Control of Narcotic Substances (Amendment) Act, 2025 (**‘the Act’**).

2. Brief facts of the prosecution case, as reflected from the FIR, are that on 01.04.2026 at about 11:00 a.m., complainant ASI Ghulam Abbas Rind along with subordinate police officials left the police station for patrolling purpose. It is alleged that when the police party reached at link road Mohbat Dero near Wango Mori Stop, they saw one person standing there having a plastic shopper in his hand. On seeing the police party, the said person allegedly attempted to run away towards northern side, whereupon he was apprehended by the police officials. The complainant allegedly opened the shopper after securing the same and recovered five big and small pieces of charas weighing 1100 grams. It is further alleged that 100 grams were separated as sample and remaining 1000 grams were sealed separately. Thereafter, recovery proceedings were prepared and the applicant was arrested, followed by registration of the present FIR on behalf of the State.

3. Learned Counsel for the applicant argued that the applicant is innocent and has falsely been implicated in the present case due to mala fide

on the part of police officials. He submitted that the applicant had earlier approached the competent Courts for protection against police harassment and such proceedings were pending prior to registration of the present FIR. Learned Counsel contended that the applicant was in fact taken into custody by police officials prior to the alleged arrest shown in the present case and thereafter narcotics were foisted upon him in order to frustrate the protection proceedings initiated by his family. He further argued that the alleged recovery was shown to have been effected from a public place during broad daylight, yet no private person was associated as *mashir* despite availability. According to him, all witnesses of recovery are police officials subordinate to the complainant, therefore, the manner of alleged recovery requires further inquiry. Learned Counsel further argued that the mandatory provisions of Section 17(1) and Section 17(2) of the Act have not been complied with. He submitted that the complainant, being an ASI, was not shown to be authorized in accordance with law to conduct the alleged search, seizure and arrest proceedings. He further contended that although the alleged incident took place at a public place during daytime, neither any video recording nor photographs of the alleged raid, recovery or arrest were prepared, which creates serious doubt regarding the genuineness of the prosecution case. Lastly, he submitted that the applicant is behind bars since his arrest, investigation has been completed and he is no more required by the prosecution; therefore, he may be admitted to post-arrest bail.

4. Conversely, learned Additional P.G. opposed the bail application and submitted that the applicant was arrested with commercial quantity of narcotic substance. He argued that the recovery proceedings are supported by prosecution witnesses, samples were separated and sent to chemical examiner, and the offence falls within the prohibitory clause of Section 497, Cr.P.C. He further submitted that the allegations regarding prior proceedings and illegal detention are afterthought and do not provide any benefit to the applicant at this stage. According to him, no case for grant of bail is made out and the application is liable to be dismissed.

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

6. The record reveals that the applicant is alleged to have been arrested on 01.04.2026 at about 12:00 noon at link road Mohbat Dero near Wango

Mori Stop and recovery of 1100 grams charas consisting of five big and small pieces has been attributed to him. The alleged recovery was effected by the police officials themselves, who are admittedly subordinate staff of the complainant. Although testimony of police officials cannot be discarded merely because of their official status, however, where recovery is alleged to have taken place from a public place during daytime, non-association of any private person as *mashir* despite availability is a circumstance which requires careful consideration at the stage of bail.

7. The question regarding compliance of Section 17(2) of the Act also requires consideration. The said provision requires video recording of raids, seizures, inspections and arrests conducted under the Act. The Hon'ble Supreme Court of Pakistan in the cases of Zahid Sarfraz Gill v. The State (2024 SCMR 934) and Muhammad Abid Hussain v. The State (2025 SCMR 721) has emphasized the significance of modern devices and visual evidence in narcotics cases, observing that such material strengthens the prosecution case and provides assurance regarding the legality of recovery proceedings. In the present case, admittedly, no video recording or photographic evidence of the alleged recovery and arrest has been produced by the prosecution. Though such omission alone may not be sufficient to discard the prosecution case at trial, however, at the bail stage, when considered along with other circumstances, it becomes a relevant factor for determining whether the case requires further inquiry.

8. The record further reflects that the applicant has specifically taken the plea that prior to registration of the present FIR, he was taken into custody by police officials and his wife had approached the Court through proceedings under Section 491 Cr.P.C. The record shows that protection applications had also been filed by the applicant before the competent Courts against alleged police harassment. The effect and relevance of such proceedings cannot be finally determined at this stage; however, the same provide a circumstance requiring deeper examination during trial regarding the possibility of false implication.

9. It is settled principle of law that even where an offence falls within the prohibitory clause of Section 497 Cr.P.C., bail can be granted if the case of the accused falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. At the stage of bail, the Court is not required to

conduct a detailed examination of evidence but only to determine whether reasonable grounds exist requiring further probe into the guilt or innocence of the accused.

10. In the present case, the circumstances including absence of independent witnesses despite alleged recovery from a public place, non-production of video recording or photographs despite statutory requirement, the plea of prior police harassment proceedings, and disputed manner of arrest collectively create reasonable doubt requiring further inquiry. The defence plea of false implication cannot be brushed aside at this tentative stage.

11. It is also relevant that the applicant is in custody since his arrest and the investigation has already been completed. There is nothing available on record to suggest that the applicant, if released on bail, would abscond or misuse the concession of bail. It is well settled that bail cannot be withheld as a punishment and every accused is presumed innocent unless proved guilty through due process of law.

12. For the foregoing reasons, we are of the tentative opinion that the applicant has succeeded in bringing his case within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C. Consequently, the instant criminal bail application is **allowed** and applicant / accused, namely Mohbat Ali son of Zanwar Muhammad Ali Kaleri, is **admitted to post-arrest bail** subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

13. The observations made hereinabove are purely tentative in nature and shall not prejudice either party during the course of trial.

The bail application stands **disposed of** in the above terms.

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