

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.D-139 of 2026

Present:

Justice Muhammad Faisal Kamal Alam
Justice Tasneem Sultana

Applicant : Ahsan Bozdar through Mr. Muhammad Ali Dayo, Advocate.

The State : Through Syed Sardar Ali Shah Rizvi, Additional Prosecutor General.

Date of Hearing : 11-08-2026
Date of Order : 11-08-2026

O R D E R

TASNEEM SULTANA, J.- Through this criminal bail application, the applicant, Ahsan s/o Jounal Bozdar seeks post-arrest bail in Crime No.72 of 2026, registered under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 (SCNSA) at Police Station, Mirpur Mathelo, after his post-arrest bail application was declined by the learned Sessions Judge/Special Judge CNS, Ghotki, vide order dated 27.04.2026.

2. The detailed facts of the case are already set out in the bail application and the FIR and, therefore, need not be reproduced here.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in the present case; that the alleged recovery has been foisted upon him; that there is unexplained delay of about one and half hour in registration of the FIR despite the place of occurrence being situated at a short distance from the police station; that no private mashir was associated despite the alleged recovery having been effected from a public place and, therefore, the provisions of Section 103, Cr.P.C were not complied with; that the mandatory requirement of video recording under Section 17(2) of the Sindh Control of Narcotic Substances Act, 2024 was not complied with; therefore, his case falls within the ambit of further inquiry and he is entitled to the concession of post-arrest bail.

4. Conversely, learned Additional Prosecutor General opposes the instant bail application and contended that the applicant is specifically nominated in the FIR and was apprehended at the spot; that as per CRO, the applicant has been booked in as much as five criminal cases under some like offences; therefore, he is not entitled to the concession of post-arrest bail.

5. Heard and record perused.

6. It reflects from the record that the applicant was allegedly apprehended during routine patrolling and 1040 grams of Charas was recovered from his possession. The sample was separately forwarded to the Chemical Examiner, whose report confirms that it contained Charas. Prima facie, therefore, the alleged recovery finds support from the forensic report. The record further shows that the applicant has previously been booked in five criminal cases, though in two of them he has been acquitted by the competent Court. His previous involvement in similar criminal cases is also a circumstance appearing from the record which cannot altogether be overlooked at this stage.

7. The alleged offence falls under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024, which is punishable with imprisonment that may extend to fourteen years but shall not be less than nine years, along with a fine up to five hundred thousand rupees, but not less than one hundred thousand rupees. In the case of **Jabran and another versus The State through Director General FIA and others (2025 SCMR 1099)**, the Honourable Supreme Court of Pakistan has discussed the question of imposition of maximum sentence. The relevant portion is reproduced as under:-

"6. We have gone through the referred judgments and have not been persuaded by the argument of the learned counsel that the minimum period of sentence is to be considered at bail stage for the purpose of section 497(1) Cr.P.C. Such interpretation is not supported by any law or subsequent jurisprudence established by this Court. At bail stage, the Court is not to undertake any speculative exercise or guess work regarding the probable length of sentence that will likely be awarded at the end of a trial. Doing so would amount to a deeper appreciation of evidence, which is prohibited at bail stage. Additionally, any such attempted categorization

of sentencing or speculation at bail stage could prejudice future proceedings by pre-empting the mind of the Trial Court."

In recent judgment in **Barkat Ullah versus The State and another, Crl. Misc. No.431-B/2024**, it is held by the Larger Bench of Islamabad High Court that:-

"(a) The expression "punishable" used in section 497(1) Cr.P.C. refers to the maximum punishment provided for an offence. Thus if an offence is punishable by ten years or more, then subject to other legal grounds, the same would attract statutory prohibition contained in section 497(1) Cr. P.C. and

(b) It is held that if provision of the Act of 1997 provides for maximum punishment of ten years and more, it shall attract the prohibitory clause of section 497(1), Cr.P.C. The applicability of the term "borderline case" developed in the context of erstwhile provisions of the Act of 1997 i.e. section 9(c), would amount to anticipating possible period of conviction at bail stage, which exercise is not permissible while making tentative assessment of a criminal case."

In another case of **Muhammad Aslam versus The State (2023 SCMR 2056)**, the Honourable Supreme Court of Pakistan has observed as under:-

"The offence is heinous in nature as it contributes to the menace of drugs having grave repercussions on the society. Prima facie the material available on the record connects the petitioner with the commission of the crime. The offence falls within the prohibitory clause of section 497, Cr.P.C. The impugned order is well reasoned, proceeds on correct principles of law on the subject and does not call for interference by this Court."

8. As regards the objections concerning non-association of private mashirs, alleged non-compliance with Section 103, Cr.P.C., and non-recording of video under Section 17(2) of the Act, the same, at this stage, are not sufficient to bring the case within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C. Their evidentiary effect, if any, shall be assessed by the learned trial Court in accordance with law.

9. In view of the above facts and circumstances, the applicant has failed to make out a case for grant of post-arrest bail. Consequently, this Criminal Bail Application is **dismissed**. However, learned trial Court is

directed to conclude the trial within three months under intimation to this Court through its Additional Registrar.

10. Needless to observe, the trial Court shall proceed independently on the basis of the evidence adduced before it, uninfluenced by the observations made hereinabove.

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