IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

***Present*:**
Mr. Justice Arbab Ali Hakro,
Mr. Justice Muhammad Osman Ali Hadi,

1st Crl. Bail Application No.D-145 of 2026

Applicant	:	Sajid Ali *alias* Sajoo *alias* Sajan Ali son of Qaimuddin Phulpoto, *through* Mr. Muhammad Rafique Abro, Advocate.
The State	:	Through Mr. Nazeer Ahmed Bangwar, Deputy Prosecutor General, Sindh.
Date of hearing	**:**	**29.10.2026.**
Date of Decision	**:**	**29.10.2026.**

O R D E R

ARBAB ALI HAKRO, J.- The applicant, Sajid Ali *alias* Sajoo *alias* Sajan Ali Phulpoto, seeks post-arrest bail in Crime No.14 of 2026, registered at Police Station Badeh, under section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 (hereinafter referred to as '**the Act**'). The allegation is that on 29.03.2026, at about 2310 hours, he was apprehended near PARCO Pipeline on the road leading from Badeh town to Dera Village while allegedly carrying a black plastic shopper containing 920 grams of charas. The mashirnama was prepared on the spot by police officials; the property was sealed, and thereafter the FIR was lodged on behalf of the State. Learned Sessions Judge/Special Judge for CNS Cases, Larkana declined bail to the applicant/accused vide order dated 21.04.2026.

2. Learned counsel for the applicant/accused, at the outset, submits that all the witnesses are police officials and that nothing was recovered from the applicant/accused's possession; rather, the alleged substance has been foisted upon him by the police to show their efficiency. He further contends that no private person was picked or associated to witness the alleged recovery, although the police party had proceeded there on spy information received at Dargah Chowk in Badeh town. He adds that the alleged quantity, 920 grams,

falls under clause (b) and not clause (c) of Sr. No.3 of the Table to section 9(1) of the Act, that the challan has since been submitted, and that the applicant/accused has no previous record. In these circumstances, learned counsel argues that the present applicant/accused's case squarely calls for further inquiry and that he is entitled to the concession of bail.

3. Conversely, the learned D.P.G. for the State opposed the grant of bail to the applicant/accused, contending that the applicant/accused was arrested on the spot with the recovery of a contraband substance and that offences of such nature have adversely affected society at large. Therefore, persons involved in such crimes do not deserve any leniency.

4. Heard and perused the record.

5. The alleged recovery is 920 grams of charas. Under Sr. No.3 of the Table to section 9(1) of the Act, as amended by the Sindh Control of Narcotic Substances (Amendment) Act, 2025, that quantity falls within clause (b), which provides for imprisonment that may extend to nine years but shall not be less than five years, along with a fine; clause (c), invoked in the FIR, applies from 1000 grams. The maximum sentence under clause (b) does not reach the ten-year threshold of the first proviso to section 497(1) Cr.P.C and where the statute prescribes a range of punishment, the lesser is kept in view at the bail stage.[1] In an offence outside the prohibitory clause, grant of bail is the rule and refusal an exception, to be resorted to only for reasons such as a likelihood of abscondence, tampering with the evidence or repetition of the offence.[2] Section 35 of the Act, as substituted in 2025, does not alter the position; its sub-section (2) itself directs release on bail where sufficient grounds exist for further inquiry into the guilt of the accused.

6. On the material, the recovery is said to have been made at 2310 hours on the Dera Road after the police party had received spy information at Dargah Chowk in Badeh town and proceeded to the spot. Section 20 of the Act excludes section 103 Cr.P.C., yet a police party acting on prior information from a town had every opportunity to take an independent person along and did not; the complainant and both mashirs belong to the same patrol party. Where the whole case rests on the word of the officials of a single police party, the want of any independent corroboration is a circumstance to be weighed, and the

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[1] *Shahbaz alias Shuiban Kalhoro v. The State* Cr. Bail Application No. D-190 of 2026 (High Court of Sindh, Bench at Sukkur), order dated 30.07.2026, paragraph 8.
[2] *Tariq Bashir v. The State* PLD 1995 SC 34; *Muhammad Tanveer v. The State* PLD 2017 SC 733.

Supreme Court has treated it as relevant at the bail stage even where the quantity was far larger than the one alleged here.[3] The charas is said to have been in two large strips and a small piece weighed together at 920 grams; the mashirnama records neither the weight of each piece nor whether the weight was taken with or without the shopper. That the applicant's objection to the safe custody of the parcel in the Malkhana and his objection to the competence of the complainant ASI under section 17(1) of the Act are all matters to be settled on evidence at the trial.

7. The challan has been submitted, and the applicant/accused, in custody since 29.03.2026, is not required for further investigation. No previous record is alleged against him; the witnesses are police officials, so there is no apprehension of tampering, and nothing suggests that he would abscond.

8. The offence is thus outside the prohibitory clause and in any event, the circumstances noticed above bring the case within the ambit of further inquiry under section 35(2) of the Act read with section 497(2) Cr.P.C. By our short order passed on 29.10.2026, we therefore allowed the application and directed that the applicant/accused be released on bail in Crime No.14 of 2026 of Police Station Badeh, subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and a P.R. bond in the like amount to the satisfaction of the trial court. These are the reasons for that order.

9. The observations made above are tentative and shall not influence the trial court, which is expected to proceed with the trial expeditiously as section 35(7) of the Act requires. Should the applicant/accused misuse the concession, the prosecution will be at liberty to seek its cancellation in accordance with law.

JUDGE

JUDGE

Qazi Tahir PA/*

[3] *Zahid Sarfaraz Gill v. The State* 2024 SCMR 934 (1833 grams of charas); *Muhammad Abid Hussain v. The State* 2025 SCMR 721 (1100 grams of heroin).