THE HIGH COURT OF SINDH, CIRCUIT COURT AT LARKANA

Before:
Mr. Justice Arbab Ali Hakro,
Mr. Justice Muhammad Osman Ali Hadi,

1st Cr. Bail Application No.D-111 of 2026

Applicant	:	Deen Muhammad Unar, through Mr. Zeeshan Ali Memon, Advocate.
Respondent	:	The State through Mr. Aitbar Ali Bullo, D.P.G., Sindh.
Date of hearing	:	15.10.2026.
Date of Order	:	15.10.2026.

O R D E R.

ARBAB ALI HAKRO, J.- Having been declined the plea for grant of post arrest bail by the Sessions/Special Judge, CNSA, Larkana vide order dated 11.06.20206, the applicant/accused has approached this Court for his release on post arrest bail in Crime No.25 of 2026 registered at Police Station Lashari, District Larkana, for an offence under Section 9(i)1(c) of the Sindh Control of Narcotic Substances (Amendment) Act, 2025 (hereinafter referred to as 'the Act').

2. Brief facts of the prosecution case, as set out in the FIR, are that on 19.05.2026, ASI Mazhar Ali Shahni and his subordinates, while being on patrolling, on a tip-off apprehended four persons, including the present applicant/accused, Deen Muhammad Unar, at about 1.00 p.m. in the waiting-room (*musafirkhana*) of Buko Sim Shaakh, and recovered a white-coloured bag containing Hemp (*Bhang*) lying beside them. On enquiry, co-accused Imdad Hussain Bhutto claimed the Hemp (Bhang) as his, while the remaining three, including the applicant, stated they were purchasers of the said Hemp (*Bhang*). During a personal search of the accused, a meager amount of Rs.200/- in cash was secured from the applicant. The Hemp (*Bhang*), when weighed, was found to be 12000 grams, which was sealed on the spot for chemical examination. Thereafter, a mashirnama of arrest and recovery was prepared, and the applicant and others were brought to the police station, where the present FIR was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. He further contended that the alleged recovery was shown to have been made from a public place during the daytime, and that, despite advance spy information, no independent private mashir was associated with the proceedings. The mashirs cited by the prosecution are police officials and subordinate to the complainant. Learned counsel further contended that the Bhang was neither claimed by the applicant nor recovered from his possession. According to the contents of the FIR, it was co-accused Imdad Hussain who had kept it in his possession. He further contended that the applicant is not a previous convict, and that the plea of false implication on account of police *mala fide* cannot be ruled out at this stage. Learned counsel also contended that the investigation has substantially been completed and that the applicant is no longer required for any investigative purpose. He placed reliance upon unreported orders of this Court passed in Cr. Bail Applications Nos. D-194 of 2025, S-1371 of 2022 and D-167 of 2025. He lastly contended that the case against the applicant calls for further inquiry within the contemplation of Section 497(2), Cr.P.C.

4. Conversely, the learned Deputy Prosecutor General, Sindh, opposed the bail application and argued that the applicant was one of the four accused apprehended red-handed, and a substantial quantity of Bhang was recovered from their possession. He submitted that the mashirnama of arrest and recovery was prepared contemporaneously, and the witnesses, in their statements recorded under Section 161 Cr.P.C., have supported the prosecution version. Learned D.P.G. further contended that sufficient material is on record connecting the applicant with the alleged recovery, and therefore no ground for the concession of bail is made out. He, therefore, prayed for the dismissal of the bail application.

5. We have heard learned counsel for the applicant and learned Deputy Prosecutor General, Sindh, for the State, and have carefully examined the material on record.

6. Prima facie, it appears that the entire case of the prosecution rests upon the testimony of police officials. Admittedly, no independent person was associated with the alleged recovery proceedings, even though the arrest and recovery are stated to have been effected during the daytime in a public waiting room, where independent witnesses could reasonably have been

available. Although the absence of private mashirs by itself may not be sufficient to discard the prosecution's case, such a circumstance assumes significance at the bail stage when making a tentative assessment of the available material.

7. It is a settled principle of law that at the bail stage the Court is not required to conduct a deeper appreciation of the evidence, but only to tentatively assess whether reasonable grounds exist to believe that the accused is connected with the commission of the offence. Where circumstances creating doubt or requiring further probe are available on record, the benefit of further inquiry envisaged under Section 497(2) Cr.P.C. is to be extended to the accused. In the present matter, it is evident from the FIR that the alleged recovery of Bhang was not made exclusively from the possession of the present applicant/accused; rather, per the FIR, co-accused Imdad Hussain is shown to have kept the same in his possession. Furthermore, the absence of independent mashirs, the nature of the evidence collected by the prosecution, and the questions regarding the manner of recovery are aspects that require deeper examination during trial. Therefore, all these facts cumulatively bring the case of the applicant/accused within the ambit of further inquiry. Whether the applicant, who was merely sitting with others in a public waiting room, had conscious knowledge of what lay inside a sack placed there, so as to be fastened with its possession, is a matter that can only be resolved once evidence is recorded. Where contraband was found in a bag lying in the middle of a room occupied by several persons, the Supreme Court left the question of their conscious knowledge or possession to the trial and allowed bail. The absence of recovery from the exclusive possession of an accused has likewise been held to bring his case within the scope of further inquiry. More recently, it has been laid down that at the bail stage, unless there is confidence-inspiring material showing that each accused knew of the narcotic possessed by the others, the total quantity cannot be attributed to every one of them. In the present case, no quantity at all is attributed to the applicant individually.

8. The video said to have been recorded under Section 17(2) of the Act does not carry the matter further at this stage either, for its contents and whether they connect the applicant with the Bhang at all, are yet to be produced and proved at the trial. Moreover, the offence u/s 9(1)(1)(c) of the Act carries maximum punishment up to 14 years and not less than 07 years. No doubt, by its upper limit the offence falls within the prohibitory part of Section

497(1), Cr.P.C. and as observed by the trial court, of Section 35(1) of the Act. That embargo, however, operates only where reasonable grounds exist for believing the accused to be guilty; once the case is found to call for further inquiry, it does not stand in the way of bail. The quantity, if any, that may ultimately be attributed to the applicant also remains uncertain and with it the punishment that may follow.

9. The applicant has remained in custody since his arrest on 19.05.2026 and is no longer required for investigation. There is nothing on record to show that he is a previous convict or involved in any other case of a similar nature. No useful purpose would be served by keeping him in custody for an indefinite period.[1]

10. For the foregoing reasons, we are of the view that the case of the applicant calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the bail application is allowed. The applicant is directed to be released on bail upon furnishing surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. Bond in the like amount to the satisfaction of the learned trial court.

11. The observations recorded hereinabove are tentative in nature and shall not influence the learned trial court while deciding the case on merits.

JUDGE

JUDGE

*Qazi Tahir PA/**

[1] *Hussain Ullah* (n.2 above).