

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.D-146 of 2026

Present:

Justice Muhammad Faisal Kamal Alam
Justice Tasneem Sultana

Applicant : Hajan Abro through M/s Shabbir Ali
Bozdar & Aaraf Soomro, Advocates.

The State : Through Syed Sardar Ali Shah Rizvi,
Additional Prosecutor General a/w SIP
Safdar Aku Buriro, P.S, Moro.

Date of Hearing : **11-08-2026**
Date of Order : **20-08-2026**

ORDER

TASNEEM SULTANA, J.- .- Through this criminal bail application, the applicant, Hajan s/o Muhammad Saleh Abro seeks post-arrest bail in Crime No.175 of 2026, registered under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 (SCNSA) at Police Station Moro, after his post-arrest bail application was declined by the learned Sessions Judge/Special Judge CNS, Naushahro Feroze, vide order dated 19.05.2026.

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 contended that the applicant is innocent and has falsely been implicated in the present case; that the alleged recovery of 1100 grams of Charas has been foisted upon him; that the proceedings relating to the alleged recovery and arrest were not documented through video or photographs; that the applicant has no previous involvement in any narcotics case; therefore, his case falls within the ambit of further inquiry and he is entitled to the concession of post-arrest bail. Reliance was placed upon Muhammad Abid Hussain versus The State and another (2025 SCMR 721).

4. Conversely, learned Additional Prosecutor General opposed the instant bail application and contended that the applicant was apprehended at

the spot and 1100 grams of Charas was recovered from his possession; that the representative sample sent to the Chemical Examiner tested positive for Charas; that the prosecution witnesses support the alleged recovery; that the offence under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 is punishable with imprisonment which may extend to fourteen years but shall not be less than nine years and, therefore, falls within the prohibitory clause; and that the CRO reflects previous involvement of the applicant in criminal cases; therefore, he is not entitled to the concession of post-arrest bail.

5. Heard. Record perused.

6. It reflects from the record that the applicant was allegedly apprehended during patrolling and 1100 grams of Charas, comprising four pieces, was recovered from his possession. A representative sample weighing 100 grams was forwarded to the Chemical Examiner, whose report confirms that it contained Charas. The CRO called by this Court also reflects previous involvement of the applicant in two criminal cases; however, neither of those cases relates to narcotics offence.

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 anticipated categorization

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

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. Learned counsel has mainly stressed that no private mashir was associated and that the proceedings relating to the alleged recovery and arrest were not documented through video or photographs and has relied upon Muhammad Abid Hussain versus The State and another (2025 SCMR 721). In the said case, the Honourable Supreme Court of Pakistan observed as under: -

“6. In the present case neither any video in the shape of recording and photographs of the alleged recovery has been collected by the police nor any private witness from the locality was associated to prove the alleged recovery from the possession of the petitioner. As stated above, the use of modern devices during recoveries is not merely a procedural formality but a crucial safeguard to protect innocent persons from potential police atrocities. It provides an objective and unbiased account of the recovery process, reducing the risk of false implications and ensuring that the rights of the accused are protected. In the cases of stringent punishments, the prosecution must present clear, cogent and reliable evidence to prove the accused's guilt beyond a reasonable doubt. In the absence of video evidence and independent witnesses, the prosecution's case relies heavily on the testimony of the police officers involved in the raid, which is insufficient to meet the required standard of proof.”

9. There can be no dispute with the principle emphasized by the Honourable Supreme Court regarding the importance of modern devices in narcotics cases. However, the observations in the case of Muhammad Abid Hussain (supra) are to be appreciated in the context of the cumulative circumstances considered therein. In the present case, the applicant is alleged to have been apprehended during patrolling at a public place and

the contraband was allegedly recovered from his personal possession. Section 17 of the Sindh Control of Narcotic Substances Act, 2024 primarily relates to entry, search, seizure and arrest without warrant in circumstances where narcotic substances are believed to be kept or concealed in a building, premises, place or conveyance, whereas seizure and arrest in a public place are separately dealt with under Section 18 of the Act. The alleged recovery in the present case, therefore, does not arise from an operation contemplated under Section 17 and, consequently, the absence of videography cannot, by itself, be treated as a fatal non-compliance of Section 17(2) so as to furnish sufficient ground for further inquiry at this stage, though its evidentiary effect, if any, shall be assessed by the learned trial Court while evaluating the evidence.

10. 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**. 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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