HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.D-35 of 2026

(Muhammad Rafique vs. The State)

Before:

Mr. Justice Zulfiqar Ali Sangi.
Mr. Justice Nisar Ahmed Bhanbhro

Applicant	:	Muhammad Rafique son of Lal Khan Through Mr. Muhammad Jahangir Qureshi, Advocate.
Respondent	:	The State Through Mr. Ghulam Abbas Dalwani, D.P.G.
Date of hearing	:	17.11.2026
Date of Order	:	17.11.2026

O R D E R

NISAR AHMED BHANBHRO, J: Through the instant bail application, the applicant Muhammad Rafique son of Lal Khan seeks post-arrest bail under Section 497 Cr.P.C in F.I.R bearing Crime No.115 of 2026, registered at Police Station Mangli for the offence punishable under Section 9(1)(3)(C) of the SCNS Act, 2024. His earlier application for post-arrest bail was dismissed by the learned Sessions Judge, Sanghar vide order dated 21-09-2026 passed in Criminal Bail Application No.1409 of 2026, whereafter he invoked the jurisdiction of this Court.

2. The brief facts of the prosecution case, as per the F.I.R are that on 09-09-2026 a police party headed by SIP Ilyas Gul Pathan of PP Jakhrao, P.S. Mangli was on patrol duty. At about 2345 hours, when the police party reached Feeder Shakh Mori on 32 Chak Link Road, Taluka Sanghar, it noticed three persons standing there, who were identified as the applicant/accused Muhammad Rafique and co-accused Moula Bux and Khamiso. Upon seeing the police party, they started firing at the police, whereupon the police party also resorted to firing in retaliation. Eventually, the applicant/accused was apprehended at the spot, whereas the other accused persons succeeded in escaping. It may be pointed out here that he was already an absconder in Crime No. 57/2026, under Sections 353 and 149 PPC, of P.S. Mangli. 1100 grams of charas was also recovered from his possession. Thereby, reportedly, he has committed the offences punishable under Sections 324, 353 and 34 PPC, besides Section 9(i)(3)(c) of the SCNS Act, 2024.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the instant case by the police; nothing was recovered from the possession of the applicant and the property was foisted upon him. He contended that though the alleged place of incident is situated in a busy area, none from the public was associated as a mashir, nor was any video recorded of the alleged arrest and recovery proceedings. He further contended that the entire recovery proceedings were conducted in violation of Section 17 of the SCNS Act, 2024. He further contended that the alleged offence is punishable with imprisonment for nine years and does not come within the ambit of the prohibitory clause of Section 497(1) Cr.P.C. He contended that no incident has taken place and that the present case is an offshoot of the main case Crime No.114/2026, for offences under Sections 353, 324 and 34 PPC at Police Station Mangli City and that the complainant has falsely implicated the applicant in the present case at the instance of the applicant's political opponents. He, therefore, prayed for the grant of bail to the applicant.

4. Conversely, learned D.P.G. contended that the applicant was apprehended at the spot and charas weighing 1170 grams was recovered from his possession and the alleged offence falls under the prohibitory clause of Section 497(1) Cr.P.C. Therefore, he prayed for the dismissal of the instant bail application.

5. Heard arguments and perused the record. Perusal of the record shows that the applicant was allegedly arrested from Chak No.32, Link Road, Feeder Shakh Road Mori, but none from the public was associated as a mashir. Moreover, the police have failed to record a video of the arrest and recovery proceedings, which is in violation of Section 17 of the Act. The applicant was allegedly found in possession of 1170 grams of charas, which offence is punishable with imprisonment that may extend to fourteen years but shall not be less than nine years. However, it is for the trial Court to decide the quantum of sentence after the conclusion of the trial. Therefore, at this stage, the alleged offence does not fall within the ambit of the prohibitory clause of Section 497(1) Cr.P.C., wherein bail is the rule and refusal is an exception. The applicant is confined in jail and is no longer required for further investigation.

6. For the foregoing reasons, and without expressing any final opinion on the merits of the case, the applicant has succeeded in making out a case for the grant of post-arrest bail. Consequently, the applicant, namely Muhammad Rafique son of Lal Khan, is granted bail subject to furnishing a solvent surety in the sum of

Rs.1,00,000/= (Rupees One Hundred Thousand only) and a P.R. Bond in the like amount to the satisfaction of the learned trial Court.

7. Needless to observe that the findings and observations recorded herein are purely tentative in nature and confined to the disposal of the instant bail application. The learned trial Court shall decide the case strictly on the basis of the evidence brought before it, independently and without being influenced by any observation contained in this order.

The instant bail application stands allowed accordingly.

JUDGE

JUDGE

Chander Kumar