THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

BEFORE:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Criminal Bail Application No. D-160 of 2026
[Mst. Najma Shar & others Vs. The State]

Applicants	**:**	Through Mr. Habibullah G. Ghouri, Advocate
The State	**:**	Through Mr. Riaz Hussain Khoso, Deputy Attorney General for Pakistan
Complainant	**:**	Through Mr. Asif Hussain Chandio, Advocate
Date of Hearing	**:**	**12-11-2026**
Date of Order	**:**	**12-11-2026**

O R D E R

ARBAB ALI HAKRO, J- Najma w/o Deedar Ali, Ameer Khatoon w/o Ameer Bakhsh and Deedar Ali s/o Ghulam Sarwar (the "**Applicants**") seek post-arrest bail in Customs Crime No. 03/2025-26, registered by the Customs, ASU Larkana-I, under Sections 6, 7, 8 and 22 of the Control of Narcotic Substances Act, 1997 (the "**CNSA**"), punishable under Section 9(c), read with Sections 2(s), 15, 16 and 157 of the Customs Act, 1969.

2. On 27.02.2026, acting on spy information, a Customs team intercepted a motorcycle near the PSO petrol pump, Civil Hospital Road, Shikarpur, at about 11:00 a.m. It was being driven by Deedar Ali, with two women as passengers, including Najma, who was carrying her infant daughter. Nine slabs of charas (9.75 kg) were said to have been recovered from a bag hanging from the seat. A lady sepoy then recovered six slabs (7.28 kg) from Ameer Khatoon and six slabs (7.12 kg) from Najma, from secret pockets in their undershirts. The total was recorded as 21 slabs, gross weight 24.15 kg (approx.). The entire quantity was sealed in a single parcel and sent to the Chemical Examiner, who, on 11.03.2026, certified it to be charas of net weight 24 kg 15 g. The challan was submitted on 25.03.2026.

3. Learned counsel for the Applicants contends that the Applicants are innocent and that the charas has been foisted upon them; that all the witnesses are Customs officials and that no private person was associated, though the place was a busy road in daylight; that the recovery was not recorded on video, the property was not sealed at the spot, and the FIR was delayed by about three hours without explanation; that it does not appeal to reason that three adults with an infant would carry such a quantity on one motorcycle; that nothing was recovered from the person of Deedar Ali; and that Najma has a suckling child with her in prison, while Ameer Khatoon is, as pleaded, a woman of about 75 to 80 years, so both are entitled to the first proviso to section 497(1) Cr.P.C. The case, he submits, is one of further inquiry.

4. Learned Special Prosecutor opposes the applications. He submits that the Applicants were apprehended together at the spot with a huge quantity of charas, part of which was found on the persons of the two women; that the entire quantity was sealed and sent to the Chemical Examiner, whose report is positive; that section 25 of the CNSA excludes section 103 Cr.P.C., and that official witnesses are as good as any other in the absence of mala fide, none of which is alleged; that the offence falls within the prohibitory clause and section 51 of the CNSA; and that the pleas of sex, age and the child do not avail in a case of this quantity.

5. We have heard learned counsel for the Applicants and the learned Special Prosecutor and have perused the record.

6. The recoveries are separate and must be attributed accordingly. At the stage of bail, "unless there is confidence-inspiring material available on record that each accused knew about the possession of the narcotic substance by the others, the total quantity cannot be attributed to every petitioner/accused separately and they are to be attributed with the quantity recovered from each petitioner/accused or on their pointation."[1] No such material has been shown to link either woman to the bag or to the other's possession. Each of them is, for the present, answerable for the quantity said to have been taken from her own person, about 7 kg, and Deedar Ali for the 9.75 kg in the bag. Each of these quantities falls within the bracket of 5,000 to 9,999 grams of charas in the Table to section 9(1) of the CNSA,

[1] *Muhammad Daud v. The State* 2026 SCMR 115 para 11.

which provides for imprisonment up to twenty years,[2] so the offence remains within the prohibitory clause of section 497(1) Cr.P.C. Even if the whole of 24.15 kg were attributed to a single accused, the highest bracket of the Table prescribes imprisonment for life, not death. Sub-section (1) of section 51 of the CNSA is therefore not attracted, and under sub-section (2) bail may be granted where the Court finds the case fit for it, against substantial security.

7. Najma and Ameer Khatoon are women, and their case falls to be examined first under the first proviso to section 497(1) Cr.P.C. The Supreme Court has held that, in the case of a woman, "irrespective of the category of the offence, bail is to be granted as a rule and refused as an exception."[3] The exceptions are the likelihood of the accused absconding, tampering with the prosecution evidence, or repeating the offence.[4] None is made out on this record. Both have a known residence in District Shikarpur, and no previous involvement of either woman in a case of this or any other kind has been shown. The investigation is complete, and the challan has been submitted. The four witnesses cited are all Customs officials, and the rest of the evidence is documentary, so nothing is left within their reach to tamper with. Both have been in custody since 27.02.2026, and neither is required for any further investigation.

8. The FIR itself records that Najma was holding her infant daughter, Amina, when she was intercepted, and that the child is stated to be with her in prison. The first proviso is beneficial legislation and is to be read purposively. The Court must have regard to children "who are not supposed to be exposed to prisons" and to the absence of a criminal record, which weighs in a woman's favour.[5] "The concept of 'welfare of minor' is incompatible with jail life."[6] Ameer Khatoon is pleaded to be about 75 to 80 years of age, while the challan records her age as about 60 years. Whichever figure is correct, she is a woman of advanced years. She is within the proviso in any event, and her age lends further weight to her claim.

9. The case of the two women is reinforced by features peculiar to the recoveries from them. The information, as recorded, spoke only of

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[2] Control of Narcotic Substances Act, 1997, section 9(1), Table, Sr. No. 3 (charas), as amended by Act XX of 2022.
[3] *Mst. Ishrat Bibi v. The State* 2024 SCMR 1528 para 7, restating *Tahira Batool v. The State* PLD 2022 SC 764.
[4] *Tahira Batool* (n.3 above).
[5] *Ishrat Bibi* (n.3 above) para 6.
[6] *Mst. Nusrat v. The State* 1996 SCMR 973 para 4.

contraband on a CD-70 motorcycle without a number plate; it named no woman and said nothing about anything concealed on a person. Both women were searched by a single lady sepoy, who is also one of the two mashirs. The record does not show where, on a public road near a petrol pump at 11:00 a.m., the search was carried out. No private person was associated, despite the prior information and the watch kept at the spot, and no photograph or recording was made on the spot. A recording is not a requirement of law, and its absence is not, by itself, a ground for bail; it may, however, be weighed with other circumstances.[7] The sealing of the parcel and the positive report of the Chemical Examiner establish the nature of the substance. They do not resolve the further question of the knowledge and role of each woman, which remains for evidence. Taken with the proviso, these circumstances make this a fit case for bail to the two women.

10. Najma and Ameer Khatoon are therefore admitted to post-arrest bail, subject to furnishing a solvent surety of Rs. 500,000/- each and a personal bond in the like amount to the satisfaction of the trial Court. They shall not leave District Shikarpur without prior permission of the trial Court and shall surrender their passports, if any, to the trial Court. They shall attend the trial Court on every date of hearing. If either misuses the concession or is found involved in any other offence of like nature, the trial Court shall be at liberty to cancel her bail in accordance with law.

11. Deedar Ali stands on a different footing. He is not entitled to the benefit of the first proviso. He was driving the motorcycle, and a bag containing nine slabs (9.75 kg) was hanging from its seat. The manner of carriage, the quantity, and the relation of the accused to the place of recovery are circumstances from which conscious possession is inferred.[8] The challan further records that the Forensic Science Laboratory found the chassis and engine numbers of the motorcycle to be unaltered, and that the telephone record of Deedar Ali shows him in constant contact with the person in whose name the motorcycle stands. The entire quantity was sent sealed to the Chemical Examiner, whose report is positive. His plea of false implication cannot be entertained without going beyond a tentative assessment.[9] On a tentative assessment, reasonable grounds exist to deny him the concession

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[7] *Zeeshan Khan v. The State* 2026 SCMR 1697 para 7; *Muhammad Abid Hussain v. The State* 2025 SCMR 721.
[8] *Daud* (n.1 above) para 8.
[9] *Bilal Khan v. The State* 2021 SCMR 460; *Noor Khan v. The State* 2021 SCMR 1212.

of bail at this stage, and this is not a fit case within section 51(2) of the CNSA. Bail is hereby declined to him, and his application is **dismissed**.

12. The observations above are tentative and shall not influence the Trial Court who shall conclude the Trial expeditiously.

The above are the reasons for our short order dated 12.11.2026.

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