

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-784 of 2025

Applicant : Waseem Shah s/o Jamal Shah, Syed  
Through Mr. Asim Rizwan Kamboh, Advocate

The State : Through Mr. Khalil Ahmed Maitlo, DPG

Date of hearing : 15.09.2025  
Dated of order : 19.09.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** The applicant seeks the concession of post-arrest bail in Crime No.45 of 2025, registered under Section 9(1)(3)(c) of Sindh Control of Narcotic Substances Act, 2024 at Police Station Bhiria road. It is noted that earlier, the bail application of the present accused was dismissed by the learned Sessions/Special Judge (CNS) Naushahro Feroze, vide order dated 27.08.2025.

2. Briefly stated, the prosecution's case is that on 16.07.2025 at about 0700 hours, complainant ASI Saeed Khan Hisbani of P.S Bhiria road, whilst patrol along with sub ordinates, intercepted applicant at Dahrun Mori, Sada Minor Link road, allegedly recovered a shopper from him, containing 2100 grams *charas*, cash amount of Rs.100, separated 150 grams for chemical analysis and prepared such memo of arrest and recovery. Consequent upon; case was registered *inter alia* on above facts.

3. Learned counsel for the applicant has contended that the applicant is innocent and has been falsely implicated in this case with malafide intention. It is asserted that no recovery whatsoever was made from the applicant at the place of occurrence. Counsel submits that the incident, as narrated, is a fabricated version, and that in fact, the applicant is running rickshaw and while coming from Halani to Bhiria with passengers, he was apprehended, the police demanded illegal bribe, on his refusal brought at Police Station, where on receipt of Rs.3000/- from his brother, the rickshaw was returned; however,

alleged recovery of contraband was foisted against him. It is further argued that all the prosecution witnesses are official functionaries, and no private independent witness was associated with the recovery proceedings, which casts doubt upon the credibility of the prosecution case. In support of his contentions, learned counsel has placed reliance upon *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), *2024 YLR 1487*, and *2021 P.Cr.L.J 443*.

4. On the other hand, learned DPG for the State has opposed the grant of bail and submits that the applicant was apprehended red-handed and a substantial quantity of *charas* was recovered from his possession. He argued that no previous enmity has been alleged against the complainant party and that the provisions of Section 35(1) of Sindh CNS Act, 2024, impose a statutory embargo on grant of bail. It is submitted that narcotics offences are on the rise and are causing serious damage to the fabric of society, particularly to the youth, thereby justifying a strict view against such offences.

5. Upon examination of the record, it transpires that the applicant is alleged to have been found in possession of 2100 grams of *charas*. Under the Sindh CNS Act, 2024, this quantity falls under Section 9(1)(3)(c), attracting a sentence ranging from a minimum of 9 years to a maximum of 14 years. However, in light of the law laid down in *Jamaluddin alias Zubair Khan v. The State* (2012 SCMR 573) and *Ismail Aijaz v. The State* (2023 P.Cr.L.J 114), the quantum of likely sentence must be assessed at the bail stage for determining whether the case falls within the prohibitory clause of Section 497(1), CrPC.

6. Furthermore, the Hon'ble Supreme Court in case of *Aya Khan v. The State* (2020 SCMR 350) categorized the recovery of 1100 grams of *charas* as a borderline case and extended the benefit of bail to the accused therein. In the present case as well, the alleged recovery matches that borderline threshold.

7. Valuable guidance may also be drawn from *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the Hon'ble Supreme Court laid stress on the evidentiary value of modern tools such as video recordings and photographs, especially where the entire prosecution case rests solely on official witnesses. The Court observed that the absence of such documentation, when the recovery is made in public during daylight, raises serious doubts regarding the integrity of the recovery proceedings. The Hon'ble Apex Court held that such cases call for further inquiry under Section 497(2) CrPC and granted bail accordingly. The Court also directed law enforcement bodies to consider amending their rules to mandate such evidentiary documentation.

8. Applying the above principles to the facts of the present case, it is noted that the recovery, though allegedly effected in broad daylight from a public place, has not been substantiated by any photographic or video evidence, nor has any independent witness been associated. This raises doubts about the genuineness of the prosecution story at this stage. Moreover, the plea of malafide, though yet to be established through evidence, cannot be brushed aside entirely, particularly when the applicant has come forward with a specific version of prior unlawful detention and demand for gratification. In the circumstances, the case against the applicant, for the present purposes, appears to call for further inquiry within the meaning of Section 497(2) Cr.P.C.

9. Accordingly, the applicant is admitted to bail, subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and a personal bond in the like amount to the satisfaction of the learned trial Court.

**J U D G E**