

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.D-01 of 2026

PRESENT

Mr. Justice Jawad Akbar Sarwana.

Mr. Justice Syed Fiaz ul Hassan Shah.

Applicant: Aziz Ahmed son of Bashir Ahmed,
Through M/s. Farhad Ali Abro and Safdar Ali Abro, Advocates.

Respondent: The State
Through Mr. Altaf Hussain Khokhar, D.P.G for State

Date of hearing: 14.04.2026

Date of decision: 21.04.2026

ORDER

Syed Fiaz ul Hassan Shah, J: The applicant was booked in Crime No. 113 of 2025 on the allegation that on December 9, 2025, a police party headed by SIP Ghulam Mustafa stopped the applicant during a routine patrol based on suspicion. Upon conducting a personal search, the police allegedly recovered six large slabs of contraband (charas). Upon weighing the seized substance, the total weight was found to be 1,475 grams.

2. It is inter-alia contended by the counsel for applicant that applicant/accused is innocent and has falsely been involved in this case. He further contended that no video recording was carried out by the prosecution and therefore principal laid down in the case of *Muhammad Abid Hussain vs the State and another (2025 SCMR 721)*, *Zahid Sarfaraz Gill vs the State (2024 SCMR 934)*, the applicant is entitled for the concession of post arrest bail. He next contended that applicant was arrested since 09.12.2025 and since then the case has not been preceeded and he is facing incarceration without any fruitful development in the case. He urged that no independent witness was arranged at the time of alleged recovery of the narcotic thereby section 103 was violated; that challan has been submitted before the Trial Court, the applicant is no more required for investigation and there is no apprehension that the applicant is attempting to temper or destroy the prosecution's evidence.

3. On the other hand, the learned D.P.G for the Sate opposed the bail application on the grounds that the applicant was nominated in the FIR with specific role; therefore, at

this stage, he is not entitled to the concession of bail. He further contended that the **principles** laid down in the cases relied upon by the counsel for the applicant do not establish that applicant is entitled to bail solely due to the absence of video recording despite of the fact that the video recording is specifically mentioned in the challan and the applicant was arrested on the spot in possession of narcotic.

4. We have heard the learned counsel for the parties and perused the record.

5. On careful examination of the record, it appears that the Memorandum of Recovery, prepared on December 9, 2025 at 03:00 hours, contains no reference to any video recording of the alleged recovery of contraband. The contention of the DPG that two USB drives containing video footage were deposited with the police file along with the statement of WHC Irfan Ali does not hold weight for tentative assessment, as the memorandum itself is silent on this aspect. The impression arises that the prosecution attempted to cure this defect subsequently through a statement recorded under section 161 Cr.P.C., which mentions the USB drives deposited at 06:00 hours. No explanation has been offered as to how the video was processed and transferred to USB drives within such a short span during the night. The FIR is also silent regarding video recording.

6. Moreover, the FIR explicitly states that the recovery and arrest memo was drafted in the front seat of a police vehicle under torchlight, raising serious concern that proceedings conducted in insufficient lighting, coupled with video recording in such darkness, cast doubt on the clarity and reliability of the evidence in the mind of a prudent person on the existence or contemporaneous recording of video evidence. This omission stands in direct conflict with the judicial standards articulated by the Hon'ble Supreme Court in the precedents cited by the applicant's counsel, particularly Zahid Sarfraz Gill (supra) and Muhammad Abid (supra). Both cases underscore the necessity of adhering to modern evidentiary practices to ensure transparency and credibility. Such deficiency of photography and videography caused for further inquiry in narcotics proceedings. While we are in agreement with the learned Prosecutor that, per the dictum of the Hon'ble Supreme Court, the maximum punishment should be considered at the bail stage, the prohibitory clause does not act as an absolute bar. Bail may still be granted based on well-recognized principles, such as the existence of reasonable grounds for further inquiry, the presence of *mala fides*, or where the evidence suffers from glaring infirmities or statutory violations.

7. The applicant has remained in custody for the past four months. It is a well-established "golden principle" of criminal justice that while the conviction of a guilty person may ultimately remedy an erroneous grant of bail, no adequate reparation can ever be afforded to an innocent individual for unjustified incarceration, even if acquittal is

eventually secured. This principle, first enunciated in ***Manzoor v. The State (1972 PLD SC 81)***, has been consistently upheld by the Hon'ble Supreme Court. In light of this jurisprudence, the applicant is accordingly extended the concession of post arrest bail in the sum of Rs. 200,000/-, with a P.R. bond in the like amount, to the satisfaction of the learned trial Court.

8. Needless to observe that any finding recorded herein-above are tentative in nature for the purpose of deciding this bail application, and the trial Court will not be influenced with it and will try the case in accordance with law.

J U D G E

J U D G E

Ahmed/Pa,