

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

**Criminal Bail Application No.D-56 of 2026**

***PRESENT***

***Mr. Justice Jawad Akbar Sarwana.***

***Mr. Justice Syed Fiaz ul Hassan Shah.***

Applicants: Mst. Fozia w/o Rahib and Zahida w/o Gulzar,  
Through Mian Taj Muhammad Keerio, Advocate.

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 applicants, who are real sisters, seek bail in connection with Crime No. 16 of 2026, registered at P.S. SITE Hyderabad. The prosecution alleges that on 01.02.2026, a police party led by SIP Ghulam Abbas Bajeer, acting on a secret tip-off, apprehended the applicants at the Zeal Pak Railway Station, Tando Muhammad Khan Road. It is further alleged that the applicants were accompanied by two children and were carrying polythene bags. Upon a personal search, the police recovered 1003 grams of methamphetamine (ICE) from the possession of applicant Mst. Fozia, and 1004 grams of the same substance from applicant Mst. Zahida.

2. It is, *inter alia*, contended by the learned counsel for the applicants that the applicants are innocent and have been falsely implicated in the instant case. He further submitted that, although the police purportedly acted on prior secret information, they failed to associate any independent witnesses from the locality to attest to the alleged recovery, which constitutes a manifest violation of Section 103 Cr.P.C. It was also argued that the case property was weighed and sealed jointly, rather than individually, creating a doubt in the prosecution's case. On humanitarian grounds, the counsel emphasized that applicant Mst. Zahida is in an advanced stage of pregnancy, while applicant Mst. Fozia is incarcerated alongside her two minor children. Furthermore, since the challan has already been submitted before the Trial Court, the applicants are no longer required for investigation; thus, there is no apprehension that they would tamper with or destroy the prosecution's evidence if released on bail.

3. Conversely, the learned D.P.G. appearing for the State vehemently opposed the grant of bail, contending that the applicants are specifically named in the FIR and that the

contraband was recovered from their exclusive possession. He further submitted that while the FIR does not explicitly mention video recording however, such evidence is available in the challan. He argued that the applicants were apprehended *in flagrante delicto* (at the spot) with a substantial quantity of methamphetamine; therefore, they do not merit the concession of bail at this stage. However, the learned D.P.G. candidly admitted that both applicants are **first-time offenders** with no prior criminal record or involvement in any other cases.

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

5. We observed that as per prosecution case, in one and same incident, both the Applicants were arrested and alleged recovery of 1003 grams and 1004 grams Chars were affected from the Applicants respectively. However, the learned D.P.G. concedes that it is border line case and the maximum sentence for the alleged recovery of 1003 grams and 1004 grams of methamphetamine is seven years.

6. Primarily, under the first proviso to Section 497(1) Cr. P.C., the grant of bail is the rule, while its refusal remains an exception, as established in "**Tahira Batool v. State**", (PLD 2022 SC 764) case. It is now a well-settled principle that in cases where the accused is either a minor under the age of sixteen years, **a woman**, or a sick or infirm person, the same considerations apply in both non-bailable offenses falling under the prohibitory clause and offenses of the non-prohibitory clause of Section 497(1) Cr. P.C.

7. In the present matter, the applicant Mst. Fozia is incarcerated along with her two minor children—namely, Laraib (daughter) and Shayan (son), both under the age of three years. Likewise, applicant Mst. Zahida is imprisoned with an advanced stage of pregnancy, as submitted by learned counsel. These circumstances, coupled with the fact that the investigation has yet to ascertain the actual perpetrators who may have exploited these women for the transportation of narcotics or to determine their precise role as sellers or buyers, warrant careful consideration. While this Court expresses grave concern over the alarming spread of narcotics in society and the increasing exploitation of women in such illicit trades, it is observed that the investigation has not, thus far, identified the principal actors responsible for the sale or purchase of these drugs. Both Applicants are first-time offenders with no prior criminal record, weigh in their favor. Consequently, at this stage, the applicants have successfully made out a case for the grant of bail.

8. The challan has already been submitted before the trial Court, and the Applicant is no longer required for investigation. Consequently, no useful purpose would be served by keeping the Applicant incarcerated for an indefinite period during trial. The Prosecution has not expressed any apprehension that the Applicant, if released, would cause damage to or tamper with the prosecution's evidence. Furthermore, no circumstances have been

highlighted to suggest that any exceptions to the settled principles, as laid down in case law, are applicable here. In the present facts and circumstances, where investigation stands concluded, challan has been filed, and there is neither any prior conviction nor any apprehension of absconding, it does not appear that continued incarceration of the Applicant would advance the cause of justice.

9. In above peculiar circumstances, the "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, if an acquittal is eventually secured is attracted based on the principle, first enunciated in ***Manzoor v. The State (1972 PLD SC 81)*** and has still been consistently followed by Courts. light of this jurisprudence, the applicants are accordingly extended the concession of post arrest bail in the sum of Rs.100,000/-each, with a P.R. bond in the like amount, to the satisfaction of the learned trial Court.

10. 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,