

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

Criminal Bail Application No.D-96 of 2026

**PRESENT**

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

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

Applicant: Munwar Hussain alias Muna son of Ghulam Hussain alias Ghulam Rasool Shaikh,  
Through Mr. Ashfaque Ali Khaskheli, Advocate.

Respondent: The State  
Through Ms. Rameshan Oad, D.P.G.

Date of hearing: 28.04.2026

Date of decision: 06.05.2026

## **ORDER**

**Syed Fiaz ul Hassan Shah, J:** The applicant was booked in crime No.189 of 2025 on the allegation that when the police party during patrolling received spy information in regard with absconder accused (present applicant) in crime No.111 of 2025 having charas and standing at Nadir Rajpute's Mango Farm village Ali Muhammad Shah Link Road, on such information police rushed there and in suspicion stopped the applicant tactfully and on his personal search recovered 04 large and 02 small pieces of charas with plastic rippers endorsed golden stamp, weighing the said charas found 2120 grams; hence, this FIR.

2. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. He further contended that police malafidely shown the applicant/accused as absconder in crime No.111 of 2000 whereas the trial court in that crime let-off the applicant vide order dated 29.08.2025 and after four days' release from that case, he was malafidely arrested by the police. He further submitted that, despite having prior "spy information," the police failed to associate any independent witnesses to attest to the alleged recovery. 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 02.09.2025 and

since then the case has not been proceeded and he is facing incarceration without any fruitful development in the case[s]. 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. Conversely, the learned D.P.G. for the State vehemently opposed the bail application. She argued that the applicant is nominated in the FIR with a specific role and was apprehended *red-handed* at the spot in possession of narcotics. She next contended that the video recording of the whole event is available on record. She lastly contended that the applicant is a habitual offender remained involve in many cases; therefore, at this stage, he is not entitled to the concession of bail.

4. We have heard the learned counsel for the respective parties and perused the available record with their assistance.

5. A perusal of the record indicates that the applicant was apprehended at the scene, with the alleged recovery of 2,120 grams of charas from his immediate possession a fact for which no plausible justification has been offered. It is a well-settled principle that when considering bail in narcotics-related offenses, the maximum statutory penalty must be the primary consideration. The offence carries a punishment ranging from 9 to 14 years. Citing a recent unreported judgment of the Hon'ble Supreme Court (**Criminal Petition No.150-K/2024**), he maintained that when considering a bail application, only the maximum statutory punishment should be considered. Thus, while the lesser punishment may fall under the non-prohibitory clause, the maximum punishment brings the case within the prohibitory clause. Given that the alleged offense carries a sentence of nine to fourteen years, the matter squarely falls within the prohibitory clause of Section 497(1) Cr.P.C. Regarding the contentions raised by the learned counsel specifically the non-association of independent witnesses such arguments necessitate a deeper appreciation of the evidence. It is a settled law that a 'deep-dive' into the merits or evidentiary nuances is impermissible at the bail stage; these are matters strictly reserved for the Trial Court to determine after a full recording of evidence.

6. We find that the recovery of a significant quantity of contraband from the applicant's direct possession constitutes a *prima facie* case against him. The applicant's silence on the reasons or arguments lacking police animosity or rancor regarding recovery of colossal quantity of narcotics substance is relevant to the court's assessment of their case. Such proceedings of recovery is backed by video recording and therefore, in

our tentative view, sufficient compliance of section 17(2) of CNS Act, 2024 has made out by the prosecution.

7. Consequently, we find no merit in the present application. The application for post-arrest bail is hereby dismissed. However, keeping in view the sufficient period of incarceration, the Trial Court is directed to conclude the trial and record the evidence within a period of five (05) months from the date of receipt of this order. Should the trial fail to conclude within the stipulated timeframe, the applicant shall be at liberty to move a fresh bail application before the Trial Court, which shall be considered on its own merits.

8. Needless to say that any finding given or the observations recorded herein-above, it is only for the purpose of deciding this bail application, which will not affect the merits of case before the Trial Court in any manner and the Trial Court will try the case without being influenced from any observation.

**J U D G E**

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Ahmed/Pa,