

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.D-193 of 2025

PRESENT

Mr. Justice Jawad Akbar Sarwana.

Mr. Justice Syed Fiaz ul Hassan Shah.

Applicant: Nasrullah son of Muhammad Soomar,
Through Mr. Farhad Ali Abro, Advocate.

Respondent: The State
Through Mr. Shehriyar Shar, Special Prosecutor ANF.

Date of hearing: 07.04.2026

Date of decision: 14.04.2026

ORDER

Syed Fiaz ul Hassan Shah, J: Through the instant bail application, the applicant seeks his admission to post arrest bail in Crime No.19 of 2025 registered under sections 6, 9(1), 3-(c), 14, 15 of Sindh Control of Narcotic Substance (Amendment) Act 2022, with P.S ANF, Hyderabad. After the arrest applicant preferred his bail plea before the Court of Model Criminal Trial Court-I/1st Additional Sessions Judge/Special Judge CNS Court Hyderabad and same was dismissed vide order dated 21.08.2025; hence, instant bail application has been maintained.

2. The allegation against the applicant/accused are that he along with his co-accused Bakhtiar Khan and Ghulam Rasool were transporting chars and on such spy information police party of PS ANF Hyderabad arrested the applicant and co-accused and recovered 03 kilo and 500 grams from their possession under such memo of arrest and recovery.

3. 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 further submitted that the entire case property was not sent for chemical analysis except 10 grams piece of sample was sent and there is no official description

about the remaining case property. He next contended that applicant was arrested since 01.05.2025 and since then the case has not been proceeded 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 applicants are no more required for investigation and there is no apprehension that the applicant is attempting to temper or destroy the prosecution's evidence.

4. On the other hand, the learned Special Prosecutor for the ANF opposed the bail application on the grounds that the applicant was nominated in the FIR with specific role and was arrested on the spot in possession of narcotics; 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. He argued that samples were extracted in compliance with Rules 3 and 4 of the CNS (Government Analyst) Rules, 2001. 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.

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

6. It is an undisputed fact that the prosecution failed to produce any video recording of the personal search, seizure, or recovery of the alleged contraband, nor was such recording referenced in the Memorandum of Recovery prepared at the crime scene by the raiding ANF/Police Officer. This omission stands in direct conflict with the judicial standards articulated by the Hon'ble Supreme Court in the precedents cited by the applicants' 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 Special 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. Besides, DPG conceded as per CRO, the applicant is not involved in any criminal cases except the present one.

7. The applicant has remained in custody for the past twelve 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,