

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.D-111 of 2026

PRESENT

Mr. Justice Jawad Akbar Sarwana.

Mr. Justice Syed Fiaz ul Hassan Shah.

Applicant: Abdul Razzaque son of Habibullah,
Through Mr. Shabeer Hussain Memon, Advocate.

Respondent: The State
Through Mr. Khalid Hussain Lakho, Deputy Prosecutor
General.

Date of hearing: 05.05.2026

Date of decision: 20.05.2026

ORDER

Syed Fiaz ul Hassan Shah, J: The applicant was booked in crime No.94 of 2025 on the allegation that on 14.07.2025, a police party headed by ASI Ghulam Akbar Shar stopped the applicant during a routine patrol based on suspicion. By conducting a personal search, the police allegedly recovered black bag contained black plastic packet, on opening it, eight pieces of charas were found wrapped in a plastic sheet of green color. Upon weighing the seized substance, the total weight was come to Eight (8) kilogram; 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 infact applicant was abducted by police officials on 13.07.2025 at about 07:00 a.m. from Rind Hotel, Jamshoro in presence of CCTV cameras record. He further submitted that, the police failed to associate any independent witnesses to attest to the alleged recovery. He also 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 14.07.2025 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 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. His wife prior complaint with police also filed direct complaint against the same police officials under section 200 Cr.P.C alleging abduction and wrongful confinement, theft of a motorcycle and fabrication of evidence.

3. Conversely, the learned D.P.G. for the State vehemently opposed the bail application. He 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. He next contended that the video recording of the whole event is available on record. He 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 1569 grams of charas from her 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 backed by photographs as well as 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. The ground of arrest prior to alleged recovery proceedings and fact that applicant's wife reported to Police high ups and subsequently filed a direct complaint against police officials and even area Magistrate has conducted inquiry in the said complaint and prepared Preliminary report considering that no such event recorded in the camera near crime scene is concerned, the same is to be considered by the concerned court after recording of the evidence in the said direct complaint. This Court cannot directly consider an interim report in a pending case before the sub-ordinate Court unless some judicial order is passed thereon and we do not intend to record any finding on the basis of such report which may adversely affect the merit of that case too.

8. We are bound to remain within framework of the present of case while hearing a bail application. The applicant is arrested spontaneously and recovered 08 KG charas. Therefore, we are not incline to grant the concession to the applicant. Consequently, we find no merit in the present application at this stage and list bail application is, therefore, dismissed. However, the applicant shall at liberty to move a fresh bail application before the trial Court once some Order is passed by Court concerned where Direct complaint is pending and the Trial Court shall consider it on merits.

9. 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.

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