

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

Criminal Bail Application No.D-48 of 2026

**PRESENT**

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

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

Applicant: Sajjad @ Dad son Naseer Khan,  
Through Ms. Urooj Aqeel, 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.109 of 2025 when the police party during patrolling reached at Abdul Sattar Edhi Road near CIA cut arrested the applicant and on his personal search recovered seven pieces of contraband charas which was weighing and found 3070 grams. Additionally, police recovered 05 shells of SMG and 03 shells of 30-bore pistol from the crime scene and the applicant/accused was booked in the present case as well as in FIR bearing crime No.107 of 2025 separately.

2. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. She further submitted that the FIR is silent with regard to preparation of memorandum of recovery and arrest and no reference has been given in the FIR as well as the FIR is also silent with regard to collection and sampling of case property even the chemical chakas has also not been referred. She next contended that in the main case crime No.107 of 2025 for the the alleged police encounter and recovery of weapons, the applicant has already been granted bail by the learned Ist. Additional Sessions Judge, Hyderabad. She urged that the applicant has malafidely involved in this case and no videography or photography is available with the prosecution for the alleged raid, personal search or recovery so made at the spot therefore, he is entitled for the concession of bail. She also contended that applicant was arrested on 08.07.2025 and since then the case has not been proceeded and he is facing

incarceration without any fruitful development in the case[s]. She 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 by contending that the memorandum of recovery has been prepared on 8<sup>th</sup> July, 2025 at about 1410 hours and available in the police record; therefore, non-mentioning the reference in the FIR does not improve the case of the applicant. She further contended that applicant is involved in more than 27 cases, out of which 04 cases were registered under CNS Act; however, she candidly admitted that videography is not available in the police file. She next 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.

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/accused was spontaneously arrested at the spot, with the alleged recovery of 3070 grams of charas from his exclusive possession, a fact for which no plausible justification has been offered. Learned counsel for the applicant insisted on the plea that the applicant has already been granted bail in a connected matter; however, it is not binding upon the Court and is no ground to incline the bail, as every case has to be decided on its own merits. Comparatively, as the statutory provision involved in the present case is mandatory in its application as well as in sentencing; hence, the recovery of 3070 grams of charas makes the case fall within the prohibitory clause of sub-Section (1) of Section 497 Cr.P.C. 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**), she 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; therefore, at this stage, he is not entitled to the concession of bail.

6. A bail can only be granted where the applicant has a reasonable ground, and in the present case, the applicant has miserably failed to give any reasonable explanation for the concession of bail at this stage. It is a well-settled principle that, when considering bail in narcotics-related offenses, the maximum statutory penalty must be the primary consideration. 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.

7. 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.

8. 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 Six (06) 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.

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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