

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Faisal Kamal Alam

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1914 of 2026

Applicant : Iftikhar Hussain S/o Altaf Hussain
through Mr. Ghulam Fareed Baloch,
Advocate

Respondent : The State
through Mr. Ali Anwar, Addl. P.G.
Sindh a/w SIP/I.O. Mehar Abdul
Sattar of PS Napier, Karachi.

Date of hearing : 14.07.2026

Date of short order : 14.07.2026

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.69/2026 registered under Sections 9(1)(3)(b) of the Sindh Control of Narcotics Substances Act, 2024 of PS Napier, after his bail plea has been declined by the learned Sessions Judge/Special Judge (CNS), Karachi South vide order dated 15.06.2026.

2. The detailed facts of the case are already available in the bail application as well as FIR, therefore, the same need not to be reproduced hereunder.

3. Learned counsel for the applicant primarily contended that the applicant is innocent and has been falsely implicated in the present case. It was argued that the alleged recovery of narcotics from the possession of the applicant amounts to only 560 grams of weed, which does not attract the prohibitory clause contained in Section 497, Cr.P.C. Learned

counsel further submitted that, despite having prior information, the prosecution neither associated any private person as a mashir nor produced any video recording of the alleged recovery, which, according to him, constitutes a clear violation of Section 103, Cr.P.C., as well as Section 17(2) of the Sindh Control of Narcotic Substances Act, 2024. He further contended that the applicant has remained behind bars for about two months and is no longer required for any further investigation. On these premises, he prayed for the grant of post-arrest bail to the applicant.

4. Conversely, the learned Additional Prosecutor General, Sindh, vehemently opposed the grant of bail and contended that the applicant was apprehended at the spot and alleged narcotics was recovered from his possession; therefore, he is not entitled to the concession of bail.

5. We have heard the learned counsel for the parties at considerable length and have carefully examined the material available on the record.

6. From perusal of the record reveals that on the day of the alleged incident, the complainant, SIP Shoukat Hussain, along with other police officials, was on routine patrol in Police Mobile No. SPB-774 within the territorial jurisdiction of Police Station Napier when they allegedly received spy information that a person was present near Kashti Chowk, Faqeer Muhammad Dura Khan Road. Acting upon the said information, the police party proceeded to the pointed location, where they apprehended the suspected individual, who disclosed his identity as Iftikhar Hussain son of Altaf Hussain. Thereafter, his personal search was conducted, during which a yellow-coloured shopping bag allegedly carried in his right hand was searched, resulting in the purported recovery of 560 grams of "weed." The recovered substance was weighed at the spot on a digital weighing scale and was found to weigh 560 grams.

7. As regards the contention advanced by the learned counsel for the applicant that the prosecution has failed to produce any video recording of the alleged recovery of the narcotic substance, the same, prima facie, appears to have substance. Section 17 of the Sindh Control of Narcotic Substances Act, 2024 has been enacted with the avowed object of ensuring transparency, fairness, and accountability in the conduct of raids, searches, seizures, and arrests carried out under the provisions of the Act. For the sake of convenience and ready reference, Section 17(2) of the said Act is reproduced hereinbelow:

“Video recording of all raids, seizures, inspections and arrests shall be made by the officer in charge of such operation.”

8. It has been observed by this Court that throughout the FIR, the mashirnama of arrest and recovery, as well as the other investigation papers, the alleged recovered substance has consistently been described as "**weed**." Significantly, the expression "weed" has neither been defined under the Sindh Control of Narcotic Substances Act, 2024 nor does it find recognition under the Single Convention on Narcotic Drugs, 1961. The said Convention defines "cannabis" as "the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated."

9. Similarly, Section 2(d) of the Sindh Control of Narcotic Substances Act, 2024 defines "cannabis (hemp)" to include cannabis resin (charas), the flowering or fruiting tops of the cannabis plant, and all forms commonly known as bhang, siddhi or ganja, together with any mixture thereof or any drink prepared therefrom. A plain reading of the aforesaid

statutory provision demonstrates that the governing legislation does not recognize or define the expression "weed" as a legal or technical description of any narcotic substance. Consequently, the repeated use of such an undefined expression in the FIR, recovery memo, and other investigation papers gives rise to a prima facie ambiguity regarding the precise nature and legal classification of the substance allegedly recovered from the possession of the applicant, a matter which undoubtedly warrants judicial scrutiny at this stage.

10. The term "**weed**" is generally **not** a statutory term in most jurisdictions. Legislatures instead use "**cannabis**", "**cannabis (hemp)**", "**marijuana**", or "**marihuana**". Here are authoritative legal definitions from international and foreign laws:

1. Single Convention on Narcotic Drugs, 1961 (United Nations) – International Law

Article 1(1) defines **cannabis** as:

"Cannabis" means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated.

This is the principal international treaty governing narcotic drugs and has influenced the legislation of many countries, including Pakistan and India.

2. India – Narcotic Drugs and Psychotropic Substances Act, 1985

Section 2(iii) defines "**cannabis (hemp)**" as:

(a) Charas, being the separated resin obtained from the cannabis plant;

(b) Ganja, being the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when

not accompanied by the tops), by whatever name they may be known or designated; and

(c) Any mixture, with or without neutral material, of the above forms or any drink prepared therefrom.

The Act further defines:

"Cannabis plant" means any plant of the genus Cannabis.

3. United States – Controlled Substances Act (Federal)

The U.S. federal statute (21 U.S.C. § 802) uses the term **"marihuana"** rather than "weed":

"Marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, subject to specified statutory exclusions (such as certain mature stalks and, following later amendments, qualifying hemp).

Source: U.S. Code, 21 U.S.C. § 802.

Practical Legal Position

In legal drafting and judicial decisions, **"weed"** is merely a **colloquial or street name**. The legally recognized terms are:

- **Cannabis** (UN Single Convention, 1961);
- **Cannabis (hemp)** (Pakistan and India);
- **Marihuana/Marijuana** (United States).

11. It is a settled principle that judicial proceedings and official records relating to criminal investigations must employ the terminology expressly recognized by law rather than colloquial or street expressions, as the use of the latter is capable of creating ambiguity with regard to the precise identity and legal classification of the alleged contraband.

Consequently, the use of the expression "weed" ought to be avoided, and reference should instead be made to the appropriate statutory term, namely "cannabis (hemp)" or "cannabis," as defined under the Sindh Control of Narcotic Substances Act, 2024 and the Single Convention on Narcotic Drugs, 1961, wherever applicable. Accordingly, FIRs, recovery memos (mashirnamas), investigation reports, and all other official documents prepared in narcotics cases should describe the recovered substance by employing the terminology recognized under the Sindh Control of Narcotic Substances Act, 2024, such as "cannabis (hemp)," "charas," "bhang," "ganja," or any other expression specifically recognized by the statute, as may be warranted by the facts of the case and duly supported by the report of the Chemical Examiner or the Forensic Science Laboratory.

12. Before parting with this order, this Court considers it appropriate to observe that the recurring use of the expression "weed" in FIRs, recovery memos, investigation reports, and other police papers, despite the absence of any statutory recognition of the said term, has the potential to create avoidable ambiguity in criminal proceedings and may adversely affect the precision and uniformity expected in the administration of criminal justice.

13. Accordingly, the Chief Secretary, Government of Sindh, the Director General, Anti-Narcotics Force, and the Inspector General of Police, Sindh, are directed to issue appropriate administrative instructions to all officers and investigating officials under their respective administrative control that, while registering FIRs, preparing recovery memos, investigation reports, and other official documents under the Sindh Control of Narcotic Substances Act, 2024, or Control of Narcotic Substance Act, 1997 they shall refrain from using colloquial expressions such as "weed" and shall instead employ the statutory terminology recognized under the Act, as may be applicable to the substance allegedly recovered and as supported by the report of the Chemical Examiner or the

Forensic Science Laboratory. Strict compliance with these directions shall ensure uniformity, legal certainty, and precision in the investigation and prosecution of offences relating to narcotic substances.

14. Reverting to the merits of the case, a tentative assessment of the material available on record reflects that the prosecution alleges the recovery of 560 grams of the substance described in the police papers as "weed" from the possession of the applicant/accused. The applicant has remained in judicial custody for approximately two months; however, no meaningful progress has been achieved in the trial proceedings. The question as to the exact nature of the recovered substance and the quantum of punishment, if any, shall ultimately be determined by the learned trial Court upon conclusion of the trial, subject to the prosecution successfully proving its case beyond reasonable doubt. At this stage, it is sufficient to note that the alleged offence carries a maximum punishment of three years' imprisonment and a minimum sentence of six months and, therefore, does not fall within the prohibitory clause of Section 497, Cr.P.C. It is by now a well-settled principle of criminal jurisprudence that grant of bail is the rule, whereas its refusal is an exception. The learned Additional Prosecutor General has been unable to point out any exceptional circumstance justifying the continued incarceration of the applicant.

15. Furthermore, all the prosecution witnesses are police officials, and no material has been brought on record to suggest that, if enlarged on bail, the applicant would be in a position to influence or intimidate the prosecution witnesses or otherwise tamper with the prosecution evidence. Equally, the prosecution has failed to place any material before this Court indicating that the applicant is a previous convict or is involved in any other case of a similar nature. It is well settled that, at the stage of deciding a bail application, the Court is required to undertake only a tentative assessment of the material available on record, and any deeper appreciation of

the evidence would amount to prejudging the merits of the case, which is not legally permissible.

16. In view of the foregoing circumstances, this Court is of the tentative opinion that the case of the applicant falls within the ambit of further inquiry as envisaged under subsection (2) of Section 497, Cr.P.C. The learned counsel for the applicant has, therefore, succeeded in making out a case for the grant of post-arrest bail. Consequently, the instant bail application was **allowed**, and the applicant/accused was admitted to bail, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court.

17. Needless to observe that the findings recorded herein are purely tentative in nature, confined to the disposal of the present bail application, and shall not, in any manner whatsoever, prejudice or influence the learned trial Court while adjudicating the case strictly on its own merits and in accordance with law.

18. Let copies of this order be transmitted to the Chief Secretary, Government of Sindh, the Director General, Anti-Narcotics Force, and the Inspector General of Police, Sindh, for information, compliance, and issuance of appropriate administrative instructions in terms of above observations.

19. These are the reasons for our short order dated 14.07.2026.

JUDGE

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