

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Mr. Justice Jawad Akbar Sarwana.

Mr. Justice Syed Fiaz ul Hassan

Shah.

Cr. Bail Application No.D-86 of 2026.

[Raja Vs. The State]

Applicant : Raja **through** Mr. Faisal Ali Raza Bhatti,
Advocate.

Respondent : The State **through** Mr. Altaf Hussain Khokhar,
Deputy Prosecutor General.

Date of Hearing : 14.04.2026.

Date of Decision : 22.04.2026.

ORDER

Syed Fiaz ul Hassan Shah, J :- The Applicant above-named seeks post-arrest Bail in F.I.R No.39/2026, registered at Police Station Kotri, Jamshoro, for offences punishable under Section 9-1 (3) (c) Sindh CNS Act, 2024. Previously he applied for the same relief before learned Sessions / Special Judge (CNS), Jamshoro but the request was declined vide order dated 07.03.2026.

2. Concisely, the facts of the prosecution case, as per FIR, are that on 25.01.2026 police party of PS Kotri, Jamshoro headed by ASI Nazaqat Ali Soomro during patrolling duty with subordinate staff apprehended the accused, Raja, at connecting road Jamali Morr and Brohi Chowk, at about 1930 hours. A black polythene bag was found from his possession containing charas weighing total 1020 grams. Due to the absence of private witnesses, police officials were appointed as mashirs. Hence, this case.

3. Learned counsel for the applicant/accused states that no video recording of such recovery was made during such incident and even, the memorandum of recovery, FIR and challan have no reference with regard to recording of such video during incident, therefore, statutory violation of Section 17 (2) of Sindh Control of Narcotic Substances Act, 2024 has been committed as well as violation of

dictum laid down by the Honourable Supreme Court of Pakistan in a cases of **Ndukwe Udoka Peter Vs. The State** (2025 S C M R 1657) and **Zahid Sarfaraz Gill Vs. The State** (2024 SCMR 934). He further contends that as per Section 17 (2) of Sindh Control of Narcotic Substances Act, 2024 an officer, not below the rank of Inspector of Narcotics Control or equivalent authorized in this behalf by Director General Narcotics Control Sindh has any power to register the FIR and investigate the case but in this case the complainant is ASI. He lastly prayed that the case of the applicant/accused is one of further inquiry and the applicant/accused may be admitted to bail.

4. On the other hand, learned D.P.G opposed the Bail Application and stated that the applicant/accused was arrested on spot; that although there is no reference of video recording in FIR and memorandum of recovery but the police file's diary reflects that the recovery incident was recorded and USB of such video recording is available in police file. Lastly, he prayed that the applicant/accused is not entitled for concession of bail; therefore, his bail plea may be dismissed.

5. Heard learned counsel for applicant/accused as well as learned Deputy Prosecution General for the State and perused the record.

6. It appears that the foundational document i.e. memorandum of recovery and arrest had no reference of video recording with regard to alleged recovery of chars from the possession of applicant/accused and absence of such video recording is violation of statutory duty under Section 17 (2) of Sindh Control of Narcotic Substances Act, 2024 . Besides, it appears that the column of challan regarding case property is empty and there is no reference to the video recording available with the prosecution or be sent for forensic analysis. The Hon'ble Supreme Court has consistently held in several judgments that video recording and photography are mandatory during the recovery of narcotics and such principles consistently laid down in *Muhammad Abid Hussain vs. The State and another* (2025 SCMR 721) and *Zahid Sarfaraz Gill vs. The State* (2024 SCMR 934). Non compliance of the statutory duty makes the case of the Applicant as one of the further

inquiry. It is further noted that the investigation has already been completed and the case has been formally challan; therefore, the Applicant is no more required for investigation. Moreover, the prosecution has not shown apprehension that the applicant, if he is so released on bail, will threaten the prosecution witnesses who are police officials or that he may tamper or damage the evidence. The applicant has made out a case for further enquiry in terms of subsection (2) of Section 497, Cr.P.C.

7. In view of above, the present applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Lac only) and P.R Bond in the like amount to the satisfaction of learned trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

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