

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Present:

Mr. Justice Jawad Akbar Sarwana.

Mr. Justice Syed Fiaz ul Hassan Shah.

Cr. Bail Application No.D-49 of 2026.

[Muhammad Iqbal alias Kabari Vs. The State]

Applicant : Muhammad Iqbal alias Kabari **through** M/s Farhad Ali Abro and Safdar Ali Abro, Advocates.

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

Date of Hearing : 14.04.2026.

Date of Decision : 21.04.2026.

ORDER

Syed Fiaz ul Hassan Shah, J :- The Applicant above-named seeks post-arrest Bail in F.I.R No.11/2026, registered at Police Station Pinyari, Hyderabad, for offences punishable under Section 9-1 (3) (c) Sindh CNS Act, 2024. Previously, he applied for the same relief before the learned Sessions / Special Judge (CNSA), Hyderabad but the request was declined vide order dated 09.02.2026.

2. Concisely, the facts of the prosecution case, as per FIR, are that on 27.01.2026 police party of PS Pinyari, Hyderabad headed by SIP Riaz Ahmed Gupchani during patrolling duty with subordinate staff apprehended the accused, Muhammad Iqbal @ Kabari, near Mehran Ground, Paretabad Hyderabad at about 2100 hours. A black polythene bag was found in his possession containing charas weighing two large and two small pieces of charas total 1514 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 as per the contents of the FIR and memorandum, recovery proceedings were carried out under the light of torch due to lack of lightening. He further contended that the case property has not been sealed separately instead sealed in one parcel despite the claim of prosecution that two big and two small pieces of

chars were allegedly recovered from the possession of applicant/accused, therefore, 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, however, he conceded that though video recording was not mentioned in memorandum of recovery, but the same has been brought on record, therefore, sufficient compliance has been made and entire case property has been sent for chemical analysis. He further conceded that the applicant/accused has no CRO and he is first offender.

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 has no reference with regard to recording of video of the alleged recovery of chars from the possession of applicant/accused, which is a violation of Section 17 (2) of Sindh Control of Narcotic Substances Act, 2024 as well as the dictum laid down by the Honorable 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). Besides, the proceedings of the alleged recovery were conducted in torch light as per the contents of FIR which raised a vacuum that an important compliance has gone or has not been replaced by non-compliance. The applicant has made out a case for further enquiry in terms of subsection (2) of Section 497, Cr.P.C. The applicant/accused is a first offender. The investigation has already been completed and the charge sheet/challan has been filed with the trial Court; therefore, the Applicant is no more required for investigation and no fruitful would be achieved by keeping incarceration the Applicant for indefinite period. Further, the prosecution has not shown any apprehension that in case, the applicant is released on bail he shall influence the prosecution witnesses or may damage the evidence. In such circumstances, the possibility of the applicant tampering with the prosecution evidence appears to be remote.

7. The principle of bail rests on the reasonableness of each case, assessed on its own merits through a tentative evaluation. Courts recognize that if an accused is ultimately acquitted after a lengthy trial, criminal law provides no remedy or compensation for prolonged incarceration without proven guilt. Thus, keeping an accused in custody indefinitely until trial conclusion serves no fruitful purpose. Since statutes do not adequately address such long detention except through bail, superior courts have developed the doctrine of "tentative assessment," ensuring that bail decisions are made by weighing the facts and circumstances of each case individually.

8. 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.

9. 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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