

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Present:

Mr. Justice Abdul Mobeen Lakho

Mr. Justice Zulfiqar Ali Sangi

Criminal Bail Application No.D-249 of 2026

Applicant: Munawar Ali Son of Muhammad Akbar through
Mr. Farhad Ali Abro, Advocate.

Respondent: The State through Ms. Rameshan Oad, Deputy
Prosecutor General, Sindh along-with
I.O/Inspector Karaim Din.

Date of hearing: 01.09.2026.

Date of order: 01.09.2026.

ORDER

ZULFIQAR ALI SANGI, J:- Through the instant Criminal Bail Application, the applicant/accused, namely Munawar Ali, seeks his admission to post-arrest bail in Crime No.145 of 2026, registered at Police Station Pinyari, District Hyderabad, for an offence punishable under Section 9(1)3(c) of the Sindh Control of Narcotic Substances Act, 2024. His earlier application for bail, being Bail Application No.291 of 2026, was dismissed by the learned Sessions Judge/Special Judge (CNSA), Hyderabad, vide order dated 23.6.2026

2. Briefly stated, the prosecution case is that on 18.06.2026 at about 2145 hours, a police party of Police Station Pinyari, while allegedly on patrol duty, apprehended the applicant near Behashti Shah Shrine, Pretabad Hyderabad. According to the prosecution, at the time of his apprehension, applicant was carrying black shopper. Upon search, four pieces of charas weighing 2015 grams was allegedly recovered from the shopper carried by accused Munawar Ali. The alleged narcotics taken into possession in the presence of mashirs, namely HC Shah Muhammad and PC Shahbaz Khan, and a mashirnama of arrest and recovery was prepared at the spot. Consequently, the present crime was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case. He submitted that the police had previously implicated the applicant in several FIRs involving different offences and that he remained incarcerated in connection with those cases. He submitted that after the applicant was granted the concession of bail by the competent Court(s)

and was released from jail, he was again implicated in the present case. It was further contended that in order to show their purported performance before the higher authorities, the police allegedly arrested the applicant while he was on his way home and subsequently involved him in the present false case due to personal grudge and enmity. He further contended the alleged place of recovery is situated in a thickly populated locality on a busy road, yet the police officials did not associate any independent/private person as a witness to the alleged recovery, despite the availability of such persons. According to learned counsel, such omission assumes significance in the circumstances of the case and renders the prosecution version open to doubt. Learned counsel further submitted that the prosecution has not alleged that any purchaser was present at the spot, nor did the police party make any effort to ascertain from whom or to whom the applicant was allegedly transporting the narcotic substance. He maintained that no incriminating article was recovered from the personal possession of the applicant and that the alleged recovery has been foisted upon him. It was, therefore, argued that the prosecution material, when tentatively assessed, does not furnish sufficient grounds for believing the applicant to be guilty, and that the case squarely falls within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C. Learned counsel accordingly prayed for grant of post-arrest bail.

4. Conversely, learned Deputy Prosecutor General, Sindh, opposed the application and supported the impugned order. She contended that the applicant was apprehended at the spot while carrying black shopper and that **2015 grams of charas**, was recovered from his possession. According to her, the alleged recovery constitutes sufficient incriminating material connecting the applicant with the commission of the offence. She further submitted that the pleas regarding the applicant's previous involvement in different cases, his alleged acquittal therein, false implication, and the manner of his apprehension involve disputed questions of fact, which cannot appropriately be determined at the bail stage and require recording and appreciation of evidence at trial. She, therefore, prayed for dismissal of the bail application.

5. We have heard learned counsel for the applicant/accused as well as learned Deputy Prosecutor General, Sindh, and have carefully examined the material available on record with their assistance. At the stage of bail, the Court is required to undertake a **tentative assessment**

of the material available on record and is not expected to conduct a deeper appreciation of evidence or undertake a meticulous examination of the merits of the case. The question, therefore, is whether the material presently available on record furnishes reasonable grounds for believing that the applicant is guilty of the alleged offence, or whether the circumstances emerging from the record necessitate further inquiry within the contemplation of **Section 497(2), Cr.P.C.**

6. Prima facie, the prosecution case rests substantially upon the alleged recovery of **2015 grams of charas from Munawar Ali**. The defence, however, has raised a specific plea that the applicant had previously been involved in different false cases and, after releasing therein, was allegedly implicated in the present case to satisfy grudge on the part of the police. At the bail stage, the effect of such previous enmity, including whether the prosecution has satisfactorily accounted for the applicant's involvement in those cases were genuine, cannot be finally determined. Nevertheless, the issue is not wholly irrelevant and, in the circumstances of the present case, requires examination at trial.

7. It is true that the testimony of police officials cannot be discarded merely on the ground that they are official witnesses. At the same time, the applicant has specifically asserted that the alleged place of recovery was a populated locality situated on a busy road and that no private person was associated with the alleged recovery proceedings. The mashirs cited by the prosecution are admittedly police officials. The question whether the prosecution had sufficient justification for not associating any independent witness, despite the alleged availability of members of the public, and whether its explanation in that regard is satisfactory, is ultimately a matter for determination by the learned Trial Court after recording evidence. However, this circumstance, coupled with the other features of the case, is relevant for the purpose of making the tentative assessment required at the bail stage.

8. Another material aspect requiring consideration is that the prosecution has not alleged any specific purchaser or recipient of the narcotic substance at or near the place of apprehension, nor does the available material presently demonstrate any attempt on the part of the applicant to sell the alleged narcotics to any particular person. We are conscious that proof of a completed sale or identification of a purchaser may not, by itself, be an indispensable ingredient of the offence alleged;

nevertheless, the circumstances surrounding the alleged possession and recovery remain matters to be examined on the basis of evidence.

9. We are further mindful that the applicant has asserted false implication and has alleged that the narcotic substance was foisted upon Him. His contention that his previous enmity with police allegedly resulted in his subsequent implication in this case cannot, at this stage, be accepted as a proved fact in his favour, nor can the prosecution version be conclusively rejected on that basis. Nevertheless, such plea is required to be considered cumulatively with the other circumstances emerging from the record, particularly the disputed manner of recovery, non-association of private witnesses despite the alleged populated locality, and the question concerning the false implication by the police on the basis of previous enmity.

10. We are conscious of the fact that the alleged quantity of charas recovered from the applicant is substantial and constitute a serious incriminating circumstance against him. However, the mere quantity of the alleged narcotic substance does not, by itself, oust the jurisdiction of the Court to examine whether the case falls within the ambit of further inquiry. The Court is required to assess the entire material available on record in its totality and determine whether the prosecution case, at this tentative stage, is free from such circumstances as may reasonably call for further inquiry.

11. It is also significant that, as presently appearing from the record, the investigation has been completed and the applicant is no longer required for any further investigation. Moreover, keeping in view the punishment attracted by the alleged offence and the lesser sentence applicable in the circumstances of the case, the offence does not, at this stage, fall within the prohibitory clause of Section 497(1), Cr.P.C. Consequently, the case is required to be considered in the ordinary framework governing grant of bail, subject to the other statutory considerations. Upon a cumulative assessment of the material presently available on record, particularly the question relating to enmity with police and the alleged consequent issue of false implication, non-association of independent/private witnesses despite the alleged populated locality, and the disputed circumstances surrounding the alleged recovery, we are of the tentative view that the applicant has succeeded in bringing his case within the ambit of further inquiry as

contemplated by Section 497(2), Cr.P.C. At this stage, we refrain from recording any final opinion regarding the genuineness of the alleged recovery, the integrity of the chain of custody, or the truthfulness of either version, as the same are matters to be determined by the learned Trial Court after recording and appreciating the evidence.

12. For the foregoing reasons, the instant Criminal Bail Application is allowed. The applicant/accused Munawar Ali is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand), along with P.R. Bond in the like amount, to the satisfaction of the learned Trial Court.

13. Before parting with the matter, it is clarified that the observations made herein are purely tentative in nature and have been recorded solely for the purpose of deciding the present bail application. The same shall not prejudice or influence the learned Trial Court in any manner while deciding the case on its merits. The learned Trial Court shall independently assess the evidence that may come on record and decide the case strictly in accordance with law.

14. These are the reasons for our short order dated 01.09.2026, whereby the applicant/accused was admitted to post-arrest bail.

JUDGE

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