

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.D-68 of 2026

Present:

Justice Muhammad Faisal Kamal Alam
Justice Tasneem Sultana

Applicant : Muhammad Hussain through Mr.
Mushtaque Shah, Advocate.

Respondent : The State through Mr. Muhammad Raza
Katohar, Deputy Prosecutor General.

Date of Hearing : 09-09-2026
Date of Order : 09-09-2026

O R D E R

TASNEEM SULTANA, J.- Through this criminal bail application, the applicant, Muhammad Hussain Bhatti, seeks post-arrest bail in Crime No.68 of 2026, registered under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 (SCNSA), at Police Station, Naushahro Feroze, after his post-arrest bail application was declined by the learned Sessions Judge (Competent Court), SCNSA, Naushahro Feroze vide order dated 11.03.2026.

2. The detailed facts of the case are already set out in the bail application and the FIR and, therefore, need not be reproduced here.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case; that the alleged recovery of 1190 grams of Charas has been foisted upon him; that no private person was associated as mashir despite the place of recovery being a populated area; that the arrest and recovery proceedings were not videographed and that the requirements of Section 17 of the Sindh Control of Narcotic Substances Act, 2024 were not complied with. He further contended that these circumstances bring the case within the ambit of further inquiry under Section 497(2), Cr.P.C and prayed for grant of post-arrest bail. To support his contentions, learned counsel relied upon the case of Muhammad Abid Hussain v. The State and another (2025 SCMR 721).

4. Conversely, learned Deputy Prosecutor General for the State opposed the application and contended that the applicant was apprehended at the spot and 1190 grams of Charas was allegedly recovered from his possession; that the recovered substance was sent to the Chemical Examiner and tested positive for Charas; that the offence carries punishment extending to fourteen years and, therefore, falls within the prohibitory clause of Section 497(1), Cr.P.C.; and that the charge was framed on 07.09.2026 and the matter is fixed for recording of evidence on 15.09.2026. He, therefore, prayed for dismissal of the bail application.

5. Heard. Record perused.

6. It appears from the record that the applicant was apprehended during routine patrolling and 1190 grams of Charas was allegedly recovered from his possession. The recovered substance was forwarded to the Chemical Examiner and tested positive for Charas. The quantity so recovered attracts Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024, which is punishable with imprisonment that may extend to fourteen years but shall not be less than nine years, along with a fine up to five hundred thousand rupees, but not less than one hundred thousand rupees. In view of the above, the maximum punishment prescribed for the alleged offence attracts the prohibitory clause of Section 497(1), Cr.P.C. Reference can be made to the cases of Jabran and another versus The State through Director General FIA and others (2025 SCMR 1099), wherein the Honourable Supreme Court has held that, at the bail stage, the maximum punishment prescribed for the offence is to be considered for determining the applicability of the prohibitory clause, and Muhammad Aslam versus The State (2023 SCMR 2056), wherein bail was declined where prima facie material connected the accused with a narcotics offence falling within the prohibitory clause.

7. Learned counsel has mainly stressed that no private mashir was associated and that the proceedings relating to the alleged recovery and arrest were not documented through video or photographs. In the case of Muhammad Abid Hussain (supra), the Honourable Supreme Court emphasized the importance of modern devices during recovery proceedings and considered the absence of video evidence and independent witnesses

along with the other circumstances of that case while examining the question of bail. The observations in Muhammad Abid Hussain (supra) are to be appreciated in the context of the cumulative circumstances considered therein. In the present case, the applicant is alleged to have been apprehended during patrolling, and the contraband was allegedly recovered from his possession. Section 103, Cr.P.C. stands excluded from searches and arrests made under the narcotics law and, therefore, non-association of a private mashir does not, by itself, render the alleged recovery doubtful. Section 17 of the Sindh Control of Narcotic Substances Act, 2024 deals with entry, search, seizure and arrest without warrant in the circumstances contemplated therein, whereas seizure and arrest in a public place are separately dealt with under Section 18 of the Act. In these circumstances, the absence of videography, by itself, cannot be regarded as sufficient to displace the other material available on record or to bring the case within the ambit of further inquiry. Its evidentiary effect, along with the remaining evidence, shall be assessed by the learned trial Court in accordance with law.

8. In view of the above facts and circumstances, the applicant has failed to make out a case for grant of post-arrest bail. Consequently, vide short order dated 09.09.2026, this Criminal Bail Application was dismissed. These are the reasons for the said short order. Needless to observe that the above observations are tentative and shall not influence the learned Trial Court, which should conclude the trial within three months from the date of receipt of this order.

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