

THE HIGH COURT OF SINDH, CIRCUIT HYDERABAD

Present:

Mr.Justice Abdul Mobeen Lakho

Mr.Justice Zulfiqar Ali Sangi

Crl. Bail Application No. D-154 of 2026

Applicant : Habibullah son of Azizullah Bhatti
Through Mr.Zaffar Ali Laghari, Advocate

The State : Ms.Rameshan Oad, Deputy Prosecutor General, Sindh

Dates of hearing : 11.08.2026

Date of short order: 11.08.2026

Date of reasons : .08.2026

O R D E R

ABDUL MOBEEN LAKHO, J:- Through this Criminal Bail Application, applicant/accused Habibullah seeks post-arrest bail in Crime No.36 of 2026, registered at Police Station Nooriabad, District Jamshoro, for an offence punishable under Section 9(1)3(c) of the Sindh Control of Narcotic Substances Act, 2024. His earlier bail application was declined by the learned Sessions /Special Judge (CNS), Jamshoro, vide order dated 23.04.2026.

2. Brief facts of the prosecution case are that on 14.04.2026, complainant ASI Abdul Latif Lund, along with police staff, was on patrol duty within the jurisdiction of Police Station Nooriabad. Upon reaching Site Area Social Chowk, Nooriabad, they allegedly noticed the applicant carrying a black shopper bag. On seeing the police, he allegedly attempted to flee but was apprehended. The shopper was checked and seven pieces of Charas were allegedly recovered therefrom. The contraband was weighed along with the shopper and found to be 1020 grams. The same was sealed at the spot and the present FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the case. He argued that the recovery is shown from a busy public place but no independent mashir was associated. He further submitted that the complainant himself admitted in the FIR and recovery memo that the alleged weight of 1020 grams included the weight of the black shopper and the actual net weight of the Charas was never determined. According to learned counsel, once the weight of the shopper is excluded, the quantity may fall below one kilogram, thereby attracting a lesser offence. He further argued that the proceedings were conducted by an ASI, whereas Section 17 of the Sindh Control of Narcotic Substances Act, 2024 contemplates action by an authorized officer of prescribed rank. He lastly submitted that challan has been submitted and the applicant is no longer required for investigation.

4. Learned D.P.G. opposed the bail application and submitted that the applicant was apprehended at the spot and 1020 grams of Charas were recovered from his possession. She further contended that the Chemical Examiner's report is positive and sufficient material is available to connect the applicant with the commission of the alleged offence.

5. We have heard learned counsel for the parties and perused the material available on record.

6. Admittedly, the prosecution case itself is that the alleged Charas was weighed together with the black shopper and the weight so obtained came to 1020 grams. The FIR, recovery memo and translated recovery particulars consistently disclose that the weight was recorded inclusive of the shopper, whereas the actual net weight of the alleged contraband was not separately determined at the time of recovery.

7. Tentative assessment of the record further reflects that the alleged quantity exceeds the statutory threshold of one kilogram by only twenty grams. In such circumstances, the question whether the contraband

actually falls within Section 9(1)(3)(b) or Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 cannot be conclusively answered at this stage. This aspect requires evidence and falls within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C.

8. The Honourable Supreme Court of Pakistan in **Zahid Sarfaraz Gill v. The State (2024 SCMR 934)** emphasized the importance of transparency in narcotics recoveries and observed that modern means of recording search, seizure and arrest help eliminate doubts and false allegations. The principle flowing from the said judgment is that where circumstances creating doubt about the prosecution version require further probe, the matter may fall within the scope of further inquiry.

9. Further tentative assessment of the record reveals that the alleged recovery was effected on 14.04.2026 whereas the sample parcel admittedly reached the office of the Chemical Examiner on 21.04.2026. No material has been brought on record explaining the delay in transmission of the sample or establishing its safe custody during the intervening period. At least at this stage, such unexplained delay constitutes a circumstance creating doubt regarding the integrity of the chain of custody and adds force to the plea of further inquiry.

10. It is also noteworthy that the entire prosecution case rests upon police officials. No private mashir was associated although the alleged recovery was effected at a public place. While such circumstance alone may not be sufficient for grant of bail, it nevertheless adds to the overall inquiry already arising from the unresolved issue regarding the actual weight of the alleged contraband.

11. The challan has already been submitted. The applicant is behind bars and is no longer required for investigation. No previous criminal record has been brought on record. In the circumstances, we are of the tentative view that the applicant has made out a case for grant of post-arrest bail.

12. Consequently, this bail application is **allowed**. Applicant Habibullah son of Azizullah Bhatti is admitted to bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

13. The observations made hereinabove are tentative in nature and shall not influence the learned trial Court while deciding the case on merits.

JUDGE

JUDGE

AHSAN K. ABRO