

THE HIGH COURT OF SINDH, CIRCUIT HYDERABAD

Present:

Mr.Justice Abdul Mobeen Lakho

Mr.Justice Zulfiqar Ali Sangi

Crl. Bail Application No. D-218 of 2026

Applicant : Dadan son of Dhani Bux Machhi
Through Mr.Muhammad Saleem Laghari, Advocate

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

Dates of hearing : **04.08.2026**

Date of short order: **04.08.2026**

Date of reasons : **.08.2026**

ORDER

ABDUL MOBEEN LAKHO, J:- Through this criminal bail application, applicant/accused Dadan seeks post-arrest bail in Crime No.47 of 2026, registered at Police Station Tando Jam, District Hyderabad, for an offence under section 9(1) (b) of the Sindh Control of Narcotic Substances Act, 2024. His earlier application for the same relief was dismissed by the learned Sessions/Special Judge (CNSA), Hyderabad, vide order dated 10.03.2026.

2. Briefly stated, the prosecution case is that on 01.03.2026, complainant SIP Muhammad Faiq Jamali, accompanied by his subordinate staff, was conducting snap checking at Laghari Mori when two persons coming on a motorcycle. On seeing the police, they allegedly attempted to escape. The applicant, who was driving the motorcycle, was apprehended, whereas the pillion rider namely Mustafa, escaped after throwing away a sack. A blue polythene sack allegedly recovered from the applicant contained four kilograms of Bhang. The sack allegedly abandoned by the absconding accused also contained four kilograms of Bhang. Samples weighing 250

grams from each sack were separated and sealed for chemical examination, thereafter the applicant was arrested and the present FIR was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated on account of his previous dispute with one Pappu Nizamani. He submitted that the alleged recovery was effected at a public place, yet no private person was associated with the proceedings and all the witnesses are subordinate police officials. He further argued that the substance described in the chemical report consists of dried leaves, straw and seeds and the report does not indicate the presence of flowering or fruiting tops of the cannabis plant. He further contends that such material does not fall within the statutory definition of cannabis or Bhang. He further submitted that the investigation has been completed, challan has been submitted, the applicant has no previous criminal record and his continued custody is no longer required for investigation.

4. Conversely, learned D.P.G. opposed the application and submitted that the applicant was apprehended at the spot and four kilograms of Bhang were recovered from his possession. She further submitted that the chemical report is positive and the proceedings of arrest and recovery were recorded in compliance with section 17(2) of the Sindh Control of Narcotic Substances Act, 2024. She, therefore, maintained that sufficient material is available to connect the applicant with the alleged offence.

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

6. At the bail stage, only a tentative assessment of the material is required and no deeper appreciation of evidence is permissible. The allegation against the applicant relates to possession of four kilograms of Bhang. The case has been registered under section 9(1)(b) of the Sindh

Control of Narcotic Substances Act, 2024, for which the prescribed imprisonment may extend to seven years but shall not be less than three years. The alleged offence, therefore, does not fall within the prohibitory clause of section 497(1), Cr.P.C. In offences not falling within that clause, grant of bail is the rule and its refusal is an exception, to be justified by exceptional circumstances.

7. More importantly, section 2(d) of the Act defines cannabis (hemp), insofar as Bhang is concerned, as the flowering or fruiting tops of the cannabis plant, excluding seeds and leaves when not accompanied by such tops. The certificate of Chemical Examiner available on record describes the samples as *“dried greenish broken leaves, straws and seeds”*. It does not state that flowering or fruiting tops were found in either sample. Whether the material allegedly recovered from the applicant answers the statutory definition of cannabis (hemp) is, therefore, a question requiring evidence and further inquiry within the meaning of section 497(2) Cr.P.C.

8. In case of **Muhammad Abid Hussain v. The State (2025 SCMR 721)**, the Honourable Supreme Court observed that, in cases carrying stringent punishment, the prosecution must present clear, cogent and reliable material; modern recording and independent corroboration serve as safeguards against false implication. Although the police papers in the present case refer to a video recording, all the cited witnesses of recovery are police officials and the evidentiary worth, completeness and authenticity of such recording can only be determined at trial. The said material, at present, does not remove the question arising from the chemical report and the statutory definition of Bhang. The Honourable Supreme Court in case of **Muhammad Shakeel v. The State (PLD 2014 SC 458)** has also emphasized that a bail matter is to be determined through a

tentative assessment without unnecessarily entering into a detailed appraisal of the prosecution evidence. The points noticed above are not final conclusions regarding innocence or guilt; they merely show that reasonable doubt exists at this stage as to whether the substance described by the Chemical Examiner falls within the statutory prohibition.

9. The investigation has already been completed and the challan has been submitted. The applicant is no longer required for further investigation. No previous conviction or involvement in a narcotics case has been shown against him, nor has the prosecution pointed out any material suggesting that he is likely to abscond, tamper with the evidence or influence the prosecution witnesses. Bail cannot be withheld merely as a punishment before conviction.

10. For the foregoing reasons, the applicant has succeeded in making out a case for post-arrest bail. Consequently, this application is **allowed**. The applicant/accused Dadan son of Dhani Bux Machhi shall be released on bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

11. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial. The learned trial Court shall decide the case strictly on the evidence brought before it.

12. The above are the reasons of our short order dated 04.08.2026.

JUDGE

JUDGE