

THE HIGH COURT OF SINDH, CIRCUIT HYDERABAD

Present:

Mr.Justice Abdul Mobeen Lakho

Mr.Justice Zulfiqar Ali Sangi

Crl. Bail Application No. D-221 of 2026

Applicant : Nasarullah s/o Abdul Khalique @ Abdul Razzaque
Through Mr.Ghulamullah Chang, 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 Nasarullah seeks post-arrest bail in Crime No.112 of 2025, registered at Police Station “B” Section, Tando Muhammad Khan, for an offence under section 9(i) (I)(d) of the Sindh Control of Narcotic Substances Act, 2024. His earlier applications for the same relief were dismissed by the learned Sessions/Special Judge for CNSA, Tando Muhammad Khan, vide orders dated 30.05.2025, 20.01.2026 and 12.06.2026.

2. Briefly stated, the prosecution case is that on 29.06.2025, complainant Inspector Muhammad Younus Sahito, along with subordinate staff, was checking vehicles at Tando Fazal Channel Mori when a blue Mazda approached with three persons on board. Its driver allegedly attempted to turn the vehicle, whereupon the police gave chase. After the vehicle stopped, two persons escaped while the applicant, stated to be its driver, was apprehended. From the rear portion of the vehicle, beneath straw, four sacks were allegedly recovered, each containing ten kilograms of Bhang/cannabis leaves, making a total of forty kilograms. One hundred grams from each sack were separated for chemical examination and the

remaining property was sealed. The proceedings were allegedly video-recorded and photographed.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that nothing was recovered from his person and the disputed sacks were allegedly found in the rear portion of the vehicle beneath straw; that the material was described throughout as cannabis leaves and that the Chemical Examiner also found only dried greenish broken leaves, straw and seeds without reporting any flowering or fruiting tops of the cannabis plant. He submitted that whether such material falls within the statutory definition of cannabis hemp is a question of further inquiry. He further argued that the applicant has remained in custody since 29.06.2025, challan has been submitted, yet the trial has not concluded despite an earlier direction of this Court.

4. Learned D.P.G. opposed the application and submitted that the applicant was driving the vehicle from which forty kilograms of Bhang were recovered; that the chemical report is positive; that the recovery proceedings were video-recorded and that the offence carries punishment extending to imprisonment for life, therefore, falls within the prohibitory clause of Section 497(1), Cr.P.C.

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

6. The offence alleged under Section 9(1) 1 (d) of the Sindh Control of Narcotic Substances Act, 2024 is non-bailable and having regard to its maximum prescribed punishment, falls within the prohibitory clause of Section 497(1), Cr.P.C. This, however, does not exclude the application of Section 497(2), Cr.P.C. where, on a tentative assessment, the existence of sufficient grounds for further inquiry is shown.

7. The material circumstance emerging from the record is the nature of the alleged contraband. Section 2(d)(ii) of the Act includes within cannabis hemp the flowering or fruiting tops of the cannabis plant, but expressly

excludes seeds and leaves when not accompanied by such tops. The Chemical Examiner's report describes the submitted parcel as containing *"dried greenish broken leaves, straws and seeds"*. It does not mention the presence of flowering or fruiting tops. Moreover, its conclusion does not identify the constituent detected in the submitted material, while the opinion refers generally to a narcotic drug under the CNS Act, 1997, although the present prosecution is under the provincial Act of 2024. Whether the substance allegedly recovered answers the precise statutory description of Bhang under the applicable enactment, therefore, requires evidence and cannot be resolved conclusively at the bail stage.

8. In case **The State v. Muhammad Sarwar and others (2017 SCMR 1993)**, the Honourable Supreme Court declined to interfere with orders granting bail in matters involving Bhang where the prosecution material did not sufficiently establish that the recovered leaves contained the parts of the cannabis plant covered by the statutory definition. A closely comparable view was taken in a case of **Ali Hamza v. The State CrI. Bail Application No.43 of 2022, vide order dated 24.03.2022**, where twenty kilograms of alleged Bhang were involved and the Chemical Examiner had described the material as dried greenish broken leaves, straw and seeds. It was held that the question whether such substance fell within the statutory definition of cannabis hemp called for further inquiry. The quantity by itself cannot cure a foundational doubt regarding the legal character of the substance allegedly recovered.

9. Although the applicant is stated to have been driving the vehicle, the alleged sacks were not recovered from his person but from its rear portion beneath straw. His knowledge and conscious possession, as well as the precise nature of the material contained in those sacks, remain matters to be proved through evidence. The challan has already been submitted, the case property is in official custody and the applicant is no longer required for investigation. His continued detention, in the presence of the foregoing

questions, would not be justified merely by describing the alleged quantity as substantial.

10. The statutory description of Bhang and the contents of the Chemical Examiner's report constitute a material ground going to the very applicability of the penal provision. Consequently, notwithstanding the previous rejection of bail, the case presently calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

11. For the foregoing reasons, this bail application is **allowed**. Applicant/accused Nasarullah son of Abdul Khaliq alias Abdul Razaque Magsi shall be released on 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 Additional Registrar of this Court.

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

The above the reasons of our short order dated 11.08.2026.

JUDGE

JUDGE

AHSAN K. ABRO