

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-157 of 2026

Applicant: Masood Khan through Mr. Khuda Bux
Laghari, Advocate.

Respondent: The State through Ms. Rameshan Oad,
D.P.G. Sindh.

Date of hearing: 13.08.2026.

Date of order: 13.08.2026.

ORDER

ZULFIQAR ALI SANGI, J:- Through the instant application under Section 497, Cr.P.C., the applicant/accused Masood Khan son of Ashiq Khan seeks his admission to post-arrest bail in Crime No.16 of 2025, registered at Police Station Batho Forest, District Matiari, for an offence punishable under Section 9(1)(3) of the Sindh Control of Narcotic Substances Act, 2024 ("Sindh CNS Act, 2024"), after his earlier application for post-arrest bail was dismissed by the learned Additional Sessions Judge/Special Judge, CNS, Matiari, vide order dated 08.04.2026.

2. Succinctly stated, the prosecution case is that on 21.07.2025 at about 1645 hours, a police party headed by SIP Ahmed Ali Halo, while allegedly conducting routine patrolling near Chakar Khan Chandio Patri towards Sakrand National Highway Road, apprehended the present applicant/accused. It is alleged that at the time of his apprehension, a black-coloured shopper allegedly carried by him was searched, from which six packets of charas, collectively weighing 3 kilograms, were purportedly recovered. The alleged narcotic substance was taken into possession, sealed at the spot, and a mashirnama of arrest and recovery was prepared in the presence of police officials. On the basis of the alleged recovery, the present FIR was registered against the applicant.

3. Learned counsel for the applicant/accused has vehemently contended that the applicant is innocent and has been falsely

implicated in the present case. He submits that the alleged recovery has been foisted upon the applicant and that the prosecution story is highly doubtful. According to learned counsel, despite the alleged place of arrest being a populated area, no independent/private person was associated as a mashir or witness to the alleged arrest and recovery. He has further pointed out an alleged delay in registration of the FIR, without any satisfactory explanation forthcoming from the prosecution. Learned counsel has also drawn our attention to certain deficiencies in the recovery proceedings, particularly that the size, dimensions and description of the alleged packets have not been properly specified; the contents of the individual packets/pieces were not separately weighed; and the prosecution material does not clearly disclose whether the weight of the narcotic substance was determined after excluding the weight of the shopper/container. It is further argued that Section 17(2) of the Sindh CNS Act, 2024 provides for video recording of raids, seizures, inspections and arrests, whereas no such video recording has been produced or referred to in the prosecution material. Learned counsel submits that these circumstances, when considered cumulatively, render the prosecution case one requiring further inquiry. It is lastly contended that the investigation has already been completed, the applicant is no longer required for any further investigation or recovery, the alleged narcotic substance has already been secured by the prosecution, and the applicant has no previous conviction or criminal antecedents. He, therefore, submits that the case squarely falls within the ambit of Section 497(2), Cr.P.C., and that the applicant is entitled to the concession of post-arrest bail.

4. Conversely, learned Deputy Prosecutor General, Sindh, appearing for the State, has opposed the instant application and supported the impugned order. She submits that the applicant was apprehended at the spot and a substantial quantity, i.e. 3 kilograms of charas, was recovered from a shopper allegedly found in his conscious possession. According to learned D.P.G., the recovery itself constitutes sufficient incriminating material connecting the applicant with the commission of the alleged offence. She contends that the statements and evidence of police officials cannot be discarded merely because of their official status, particularly when they are otherwise competent witnesses. Learned D.P.G. further submits that the pleas of false implication, non-

association of private persons, alleged delay in registration of the FIR, manner of arrest and recovery, and the alleged non-compliance with the statutory requirement of video recording are matters relating to appreciation of evidence and cannot be conclusively determined at the bail stage. She accordingly prays for dismissal of the application.

5. We have heard the learned counsel for the applicant/accused as well as the learned Deputy Prosecutor General, Sindh, and have carefully examined the available material with their assistance. At the outset, it is appropriate to observe that while deciding a bail application, the Court is not required to conduct a detailed and deeper appreciation of evidence as would be undertaken after recording of the entire prosecution and defence evidence. The Court is required to make a tentative assessment of the material available on record for the limited purpose of determining whether reasonable grounds exist for believing that the accused is connected with the commission of the alleged offence or whether the circumstances give rise to a case of further inquiry within the contemplation of Section 497(2), Cr.P.C.

6. In the present case, the alleged recovery of 3 kilograms of charas is undoubtedly a serious incriminating circumstance and cannot be lightly brushed aside. At the same time, the Court is required to examine whether the prosecution material, at its face value, is sufficiently confidence-inspiring or whether there exist circumstances which require further probe. The defence has specifically disputed the very manner and circumstances in which the applicant was allegedly apprehended and the narcotic substance recovered from his possession. Such questions relating to the actual place of arrest, the circumstances preceding the alleged recovery, and the manner in which the shopper was allegedly found in the possession of the applicant are essentially factual controversies, the final determination of which would require evidence and cross-examination and, therefore, cannot appropriately be undertaken at the bail stage.

7. We have also noticed that the alleged recovery was effected by members of the police party and, despite the assertion of the defence that the place of occurrence was a populated locality, no private person was associated with the proceedings as a mashir or witness. It is settled that the testimony of police officials is not

liable to be discarded merely because of their official status, and a conviction may legally be founded upon trustworthy official evidence. Nevertheless, where the defence specifically raises the question of availability of independent persons at the alleged place of recovery and their non-association is relied upon as a circumstance casting doubt upon the recovery proceedings, such circumstance may, at the bail stage, be considered along with the other features of the case for determining whether further inquiry is warranted. The effect and weight to be attached to such omission, however, shall remain a matter for determination by the learned Trial Court after recording the evidence.

8. Another aspect requiring consideration is the prosecution's description of the alleged narcotic substance. Although six packets are stated to have been recovered, the defence has specifically questioned the particulars and description of such packets and the manner in which their weight was determined. It has been pointed out that the individual packets/pieces were not separately weighed and that the available prosecution material does not, at least prima facie, satisfactorily clarify whether the weight attributed to the alleged narcotic substance was calculated after excluding the weight of the shopper or any other packing material. At this stage, we do not hold that such omission by itself is sufficient to discredit the recovery; however, when examined cumulatively with the other circumstances pointed out by the defence, it does create a matter requiring closer examination during trial.

9. The contention regarding the statutory requirement of video recording also calls for tentative consideration. Learned counsel has relied upon Section 17(2) of the Sindh CNS Act, 2024, asserting that raids, seizures, inspections and arrests are required to be video-recorded. The prosecution has not, at this stage, placed before us any such recording or satisfactorily demonstrated whether video recording was undertaken, preserved, or produced in connection with the alleged arrest and recovery. Whether the statutory provision was attracted to the precise circumstances of the case, whether the requisite recording was in fact made, and, if not, what consequence should follow from such omission, are matters dependent upon the evidence and the interpretation of the relevant statutory provision. We, therefore, refrain from expressing

any final opinion regarding either the applicability of the provision or the ultimate evidentiary effect of its alleged non-compliance.

10. We have further considered the defence plea regarding the alleged delay in registration of the FIR. Although delay, by itself, is not invariably fatal to the prosecution case, where the prosecution is required to account for the time consumed between the alleged recovery and registration of the FIR, an unexplained or inadequately explained delay may assume significance, particularly when the defence has alleged manipulation or subsequent introduction of the accused into the case. At this stage, however, we leave the question open for determination by the learned Trial Court after examination of the relevant prosecution witnesses and documentary material. It is also not disputed that the investigation has been completed and the applicant is no longer required for further investigation. The alleged narcotic substance has already been recovered and secured by the prosecution, while no further recovery from the applicant has been shown to be necessary. The applicant has also asserted that he has no previous conviction or criminal antecedent, a circumstance which, though not by itself determinative, may be considered in conjunction with the other factors relevant to the exercise of discretion under Section 497, Cr.P.C.

11. We are conscious that the offence alleged against the applicant concerns narcotic substance and that the quantity attributed to him is not insignificant. Nevertheless, the seriousness of the allegation, by itself, cannot dispense with the requirement of examining whether the prosecution material provides reasonable grounds for believing the applicant's guilt at the stage of bail. Where the available material discloses circumstances giving rise to reasonable doubt or requires further probe into material aspects of the prosecution case, the statutory benefit of further inquiry under Section 497(2), Cr.P.C. cannot be withheld merely because the allegation is serious. In the peculiar circumstances of the present case, the disputed circumstances surrounding the arrest and recovery, non-association of private persons despite the alleged availability thereof, the questions relating to the description and weighing of the alleged narcotic substance, the controversy concerning exclusion of the weight of packing material/shopper, the alleged delay in registration of the FIR, and the issue regarding

statutory video recording, when considered cumulatively and without expressing any final opinion on the merits, persuade us that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

12. Accordingly, for the foregoing reasons, the instant bail application is allowed. The applicant/accused Masood Khan son of Ashiq Khan is admitted to post-arrest bail in Crime No.16 of 2025, registered at Police Station Batho Forest, District Matiari, subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned Trial Court.

13. Before parting with this order, it is made clear that the observations recorded herein are tentative in nature, confined strictly to the determination of the applicant's entitlement to bail, and shall not be construed as an expression of opinion on the ultimate merits of the prosecution case. The learned Trial Court shall decide the case independently, strictly in accordance with law and on the basis of evidence brought on record, uninfluenced by any observation made herein.

14. These are the reasons for our short order dated 13.08.2026, whereby the applicant/accused was admitted to post-arrest bail.

JUDGE

JUDGE

****Hafiz Fahad****