

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

Present:

Mr. Justice Abdul Mubeen Lakho

Mr. Justice Zulfiqar Ali Sangi

Criminal Bail Application No.D-240 of 2026

Applicant: Talha through Mr. Masood Rasool Babar
a/w Abdul Samad Khaldi, Advocate.

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

Date of hearing: 01.09.2026.

Date of order: 01.09.2026.

ORDER

ZULFIQAR ALI SANGI, J: - The applicant/accused, Talha son of Raheem Bux Khaskheli, has invoked the jurisdiction of this Court seeking post-arrest bail in Crime No.33 of 2026, registered at Police Station Thano Bula Khan, Jamshoro, for an offence punishable under Section 9(1)(3)(C) of the Sindh Control of Narcotic Substances Act, 2024 ("the Act"), after his earlier post-arrest bail application was declined by the learned Sessions Judge/Special Judge, CNS, Jamshoro, vide order dated 06.07.2026.

2. Briefly stated, the prosecution case, as set out in the FIR and the material collected during investigation, is that on 28.06.2026 at about 0830 hours, a police party headed by ASI Shahnawaz Rahujo, while allegedly patrolling the area, reached at Link Road heading from Thano Bula Khan to Dhamach Barki Nai, where the applicant/accused was allegedly apprehended. It is alleged that a black-coloured shopper carried by the applicant was searched and two pieces of charas, weighing 1050 grams, were allegedly recovered there-from. The alleged narcotic substance was taken into possession, sealed at the spot, and a mashirnama of arrest and recovery was prepared. On the basis of the said recovery, the present FIR was registered against the applicant.

3. Learned counsel for the applicant/accused, while seeking his release on bail, contended that the applicant is innocent and has been falsely implicated in the present case. It was argued that the

alleged recovery has been foisted upon him and that, despite the alleged place of occurrence being a populated locality, no independent person from the vicinity was associated with the proceedings as a mashir. Learned counsel further pointed out certain deficiencies in the prosecution version regarding the alleged narcotic substance, particularly that neither the dimensions nor any distinguishing description of the two alleged pieces of charas has been furnished; the individual pieces were not separately weighed; and the prosecution material does not clearly disclose whether the weight of the shopper/container was excluded while determining the net weight of the alleged narcotic substance. It was further submitted that the investigation has since been completed, the applicant is no longer required for any investigative purpose, and he has no previous conviction or criminal antecedent. On these premises, learned counsel maintained that the case squarely calls for further inquiry within the contemplation of Section 497(2), Cr.P.C., and prayed for grant of post-arrest bail.

4. Conversely, learned Deputy Prosecutor General, Sindh, appearing for the State, opposed the application and supported the impugned order. She contended that the applicant was apprehended at the spot and a substantial quantity of charas weighing 1050 grams was recovered from a black Coloured shopper allegedly in his possession. According to learned D.P.G., the recovery constitutes sufficient incriminating material connecting the applicant with the commission of the alleged offence. She further argued that the statements of police officials cannot be discarded merely because they happen to be official witnesses and that the pleas of false implication, non-association of private persons, and alleged irregularities in the manner of arrest and recovery involve disputed questions of fact which can properly be determined only after recording of evidence at trial. She, therefore, sought dismissal of the bail application.

5. We have heard learned counsel for the applicant/accused and learned Deputy Prosecutor General, Sindh, and have gone through the available material with their assistance. It is by now well settled that, while considering a question of bail, the Court is not required to conduct a meticulous examination of the evidence or undertake a deeper appreciation thereof as would be appropriate at the conclusion of trial. At this stage, the Court is

required to make only a tentative assessment of the material available on record for the limited purpose of determining whether reasonable grounds exist for believing that the accused has committed the alleged offence, or whether the case falls within the ambit of further inquiry under Section 497(2), Cr.P.C. Any observation made at this stage must necessarily remain tentative and shall not amount to a final determination of the merits.

6. There is no cavil with the proposition that the alleged recovery of 1050 grams of charas, if ultimately established in accordance with law, constitutes a serious incriminating circumstance. Nevertheless, the mere fact of recovery does not relieve the prosecution of its obligation to establish, through legally admissible and confidence-inspiring evidence, the factum of recovery, the identity and quantity of the substance recovered, its safe custody, transmission and production before the competent forum. At the bail stage, the Court is therefore required to examine whether the prosecution material, on tentative assessment, presents an unimpeachable chain of circumstances or whether any material aspect remains open to reasonable doubt requiring further inquiry.

7. In the present case, the alleged recovery was admittedly affected by members of the police party, and no private person was associated as a mashir. We are conscious that the evidence of police officials is not liable to rejection merely on the ground that they are official witnesses. There is equally no inflexible rule of law that every recovery affected by a police officer must necessarily be corroborated by a private witness. However, where the alleged recovery is stated to have taken place in a populated locality, the non-association of any independent person, particularly when the defence has specifically raised such objection, is a circumstance which cannot be altogether ignored at the stage of tentative assessment. The effect and evidentiary value of such omission shall, of course, be determined by the learned Trial Court after recording and assessing the evidence of the prosecution witnesses.

8. Another aspect requiring consideration relates to the quantification and description of the alleged narcotic substance. The prosecution case is that two pieces of charas were recovered; however, the material presently available does not appear to contain any meaningful description of the individual pieces, their

respective dimensions or weights. The defence has specifically questioned whether each piece was separately weighed and whether the weight allegedly attributed to the recovered substance represents the net weight, after exclusion of the polythene bag or other packing material. These are not matters upon which a final finding can be recorded at the present stage; nevertheless, where the precise quantity of the alleged narcotic substance bears legal significance, the manner in which such quantity was ascertained assumes corresponding importance. The prosecution may ultimately explain these aspects through reliable evidence and supporting documents, and it would neither be appropriate nor permissible for us, at this stage, to prejudge the evidentiary value of the mashirnama, chemical report, custody documents or the testimony of the police officials. However, when the above circumstances are examined cumulatively, rather than in isolation, they give rise to questions concerning the manner of recovery, the absence of independent corroboration, and the precise ascertainment of the alleged quantity of narcotic substance. Such circumstances, in our tentative view, are sufficient to bring the case within the scope of further inquiry contemplated by Section 497(2), Cr.P.C.

9. It is also significant that the investigation has been completed and the applicant is no longer required for further investigation or recovery. The alleged narcotic substance has already been taken into possession by the prosecution and, therefore, the continued incarceration of the applicant cannot be justified merely for the purpose of investigation. The applicant is stated to have no previous conviction or criminal antecedent, and no material has been placed before us at this stage to suggest that, if released on bail, he is likely to abscond, tamper with the prosecution evidence, or otherwise obstruct the course of justice.

10. The object of bail is not to punish an accused before his guilt is finally determined by a competent Court. At the same time, the seriousness of the allegation and the statutory scheme governing narcotic offences cannot be disregarded. The Court is, therefore, required to strike a balance between the competing considerations, keeping in view the constitutional presumption of innocence, the requirement of a fair trial, and the statutory parameters governing grant of bail. In the circumstances of the present case, we are

persuaded that the questions noted above require deeper examination at trial and, for purposes of bail, bring the matter within the ambit of Section 497(2), Cr.P.C.

11. For the foregoing reasons, without expressing any final opinion on the merits of the prosecution case, we are of the tentative view that the applicant has succeeded in making out a case for further inquiry. Consequently, the instant bail application is allowed. The applicant/accused Talha son of Raheem Bux Khaskheli is admitted to post-arrest bail in Crime No.33 of 2026, registered at Police Station Thano Bula Khan, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and personal bond in the like amount to the satisfaction of the learned Trial Court.

12. Before parting with the order, it is clarified that the observations made herein are tentative in nature, confined strictly to the determination of the applicant's entitlement to bail, and shall not prejudice the case of either side at the trial. The learned Trial Court shall independently assess the evidence, without being influenced by any observation contained in this order.

13. These are the reasons for our short order dated 01.09.2026, whereby the applicant/accused was admitted to post-arrest bail.

JUDGE

JUDGE

****Hafiz Fahad****