

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
[DIVISIONAL BENCH]

Cr. Bail Appln. No. D-89 of 2025

**Before:**

***Mr. Justice Amjad Ali Bohio, J.***

***Mr. Justice Khalid Hussain Shahani, J.***

Applicant : Allah Dino @ A.D s/o Fateh Muhamad Machi  
Through Mr. Muhammad Suleman Kalhor, Advocate

The State : Through Syed Sardar Ali Shah, Addl. P.G

Date of Hearing : 05.11.2025

Date of Order : 18.11.2025

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**ORDER**

**KHALID HUSSAIN SHAHANI, J. —** Applicant/accused Allah Dino @ A.D seeks post-arrest bail in a case bearing crime No.152/2025 registered at Police Station Moro, for offence under Section 9(i), 3(D) of the Sindh Control of Narcotic Substances Act, 2024 (hereinafter referred to as "SCNS Act 2024"). The applicant initially filed a bail application bearing No.1959/2025 before the learned Sessions Judge/Special Judge, Narcotics, Naushahro Feroze, which was dismissed vide impugned order dated 01.09.2025. Being aggrieved by the said dismissal, the instant bail is filed.

2. As per prosecution theory, on 09.05.2025 at 1500 hours, a police party headed by SIP/SHO Mujeeb Rehman Narejo along with ASI Asadullah Chandio and other constables were conducting routine checking at Irrigation Road Fardoo Mori. Two persons were observed approaching on a motorcycle, who attempted to escape upon seeing the Government vehicle. The police apprehended one person identified as Allah Dino alias A.D while the other person (later identified as Haji son of Allah Rakhio Machi) managed to escape into the crops. Upon search of the apprehended person, five currency notes totaling Rs.5,000/- were recovered from him. A school bag recovered from the motorcycle contained 10 packets of charas weighing 5,000 grams in total,

out of which 200 grams were sealed separately as sample for chemical analysis. The applicant was arrested under Section 9(i) 3D SCNS 2024. The FIR was lodged at Police Station Moro on the same date at 1600 hours.

3. Mr. Kalhoro, learned counsel for the applicant advanced the principal contentions: (i) The recovery proceedings were conducted in complete violation of mandatory provisions of law, particularly Section 17(2) of the SCNS Act 2024, which mandates video recording of all raids, seizures, inspections, and arrests. Despite this being a mandatory requirement, the police have completely overlooked this provision. (ii) The alleged place of incident is a public and busy road; therefore, independent private persons were available but were not associated as mashirs in violation of Section 103 Cr.P.C. (iii) While 5,000 grams of *charas* was allegedly recovered, only 200 grams was sealed for chemical analysis, raising questions about whether the offence falls within Section 9(i) 3(D) SCNS. (iv) The applicant has no previous criminal record and is no longer required for further investigation as challan has already been submitted. (v) He relied on the landmark judgment *Muhammad Abid Hussain v. The State* (2025 SCMR 721), wherein the Hon'ble Supreme Court held that failure to record recovery on video, non-association of private witnesses, and failure to adhere to judicial directives tilts the balance in favor of the accused. (vi) He also cited *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), wherein the Hon'ble Supreme Court urged that video recording and photographic evidence should be used to prevent false allegations and ensure transparency.

4. Mr. Shah, learned Additional Prosecutor General opposed the bail application on the grounds that: (i) The offence under Section 9(i) 3(d) SCNS Act 2024 is punishable up to 20 years but not less than 14 years, hence it falls within the prohibitory clause under Section 35(1) of the Sindh Control of Narcotic Substances (Amendment) Act, 2025. (ii) The recovery of narcotic

drugs has been supported by prosecution witnesses. (iii) No enmity of the police with the applicant has been demonstrated. (iv) The learned trial Court had already rejected the bail application after proper consideration.

5. *Heard counsels & perused the record.*

6. Section 17(2) of the SCNS Act 2024 mandates that "the video recording of all raids, seizures, inspections and arrests shall be made by the officer in-charge of such operations". This provision was introduced as a substantive safeguard to ensure transparency, accountability, and credibility in law enforcement actions. The true purpose behind mandatory video recording in warrantless situations is not only to validate the claimed recovery of narcotic substances but also to ensure that the recovery was made from the accused and not planted subsequently.

7. The learned trial Judge narrowly interpreted Section 17(2) by holding that it applies only to "operations" which should be organized and planned movements, and not to routine checking. With respect, we find this interpretation overly restrictive. A purposive and contextual interpretation reveals that the legislature intended this safeguard to apply to all warrantless searches, seizures, and arrests conducted by law enforcement agencies, irrespective of whether characterized as "raids" or "routine checking". To exclude routine checking would frustrate the very object of this protective provision.

8. The Hon'ble Supreme Court in *Muhammad Abid Hussain v. The State* (2025 SCMR 721) categorically held that given the gravity of penalties prescribed under the Act, the standard of proof required to establish guilt must be correspondingly high. The Court observed: "*The failure to record the recovery on video, non-association of private witnesses and failure to adhere clear judicial directives, tilts the balance in favour of the petitioner*". Similarly, in *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), the Hon'ble

Supreme Court urged that *"If the police and ANF were to use their mobile phone cameras to record and/or take photographs of the search, seizure and possession by the accused of the narcotic substances... It may also prevent false allegations being levelled against ANF/police that the narcotic substance was foisted upon the accused for some ulterior motives"*.

9. In the present case, admittedly, no video recording or photographic evidence of the alleged recovery, search, seizure, or arrest has been made. The complainant has not even mentioned in the FIR that any video or photograph was captured. This glaring omission, particularly when police personnel ordinarily carry cell phones with in-built cameras, assumes paramount importance in light of Section 17(2) and the Supreme Court's clear directives. Furthermore, the alleged recovery occurred at a public place (Irrigation Road Fardoo Mori, a busy road) where independent private witnesses were readily available. However, the complainant associated only police officials ASI Asadullah Chandio and PC Mansoor Ali as mashirs, thereby violating Section 103 Cr.P.C. Additionally, while the FIR alleges recovery of 5,000 grams of charas, only 200 grams was sealed for chemical analysis. This discrepancy raises further questions regarding proper securing and preservation of the alleged recovery. The applicant has been in custody for more than six months, and is no longer required for investigation as challan has already been submitted. The cumulative effect of these circumstances, non-compliance with Section 17(2), violation of Section 103 Cr.P.C, absence of independent witnesses, lack of video or photographic evidence, and absence of previous criminal record, creates substantial doubt about the prosecution's case.

10. While we fully recognize the grave menace of drug trafficking, we are equally mindful of our constitutional duty to protect fundamental rights and ensure fair application of due process. The safeguards enshrined in

Section 17(2) are not mere procedural technicalities but substantive protections designed to prevent abuse of power. Where these safeguards are violated, the benefit of doubt must favor the accused. The matter requires further inquiry. At this stage, the applicant has made out a case for the grant of bail. His continued incarceration serves no useful purpose, particularly as all prosecution witnesses are police officials under state control and cannot be influenced by the applicant.

11. For the reasons recorded above, the instant Criminal Bail Application is allowed. The applicant/accused Allah Dino alias A.D, Machi is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousand Only) and P.R Bond in the like amount to the satisfaction of the learned trial Court. It is clarified that the observations made herein are purely for deciding the bail application and shall not influence the trial Court's decision on merits.

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