

THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Present:

Mr. Justice Abdul Mobeen Lakho

Mr. Justice Riazat Ali Sahar

Criminal Bail Application No.D-132 of 2026

Applicant: Muhammad Hassan @ Sher Khoso through
Mian Taj Muhammad Keerio, Advocate.

Respondent: The State through Mr. Shahriyar Shar, Special
Prosecutor ANF along with SI Muhammad
Siddique PS ANF Hyderabad.

Date of hearing: 27.08.2026.

Date of order: 27.08.2026.

ORDER

RIAZAT ALI SAHAR, J: - The applicant/accused Muhammad Hassan @ Sher Khoso son of Ali Hassan Khoso seeks post-arrest bail in Crime No.59 of 2025, registered at Police Station ANF, Hyderabad, for an offence under sections 6-9(1)3(c) of the Control of Narcotic Substances Act, 1997, after dismissal of his earlier bail application by the learned Additional Sessions Judge-III/Special Judge, Control of Narcotic Substances, Hyderabad, vide order dated 10.12.2025. The applicant is in custody since 02.11.2025.

2. Briefly, the prosecution case is that on 02.11.2025, on receipt of spy information regarding the applicant allegedly coming to supply narcotics near Toyota Motors, Hyderabad, an ANF raiding party proceeded to the pointed place. The applicant was allegedly apprehended there while holding a black shopper, from which 2,000 grams of charas was recovered, where after he was arrested and the alleged narcotic substance was sealed and taken into possession. The applicant was thereafter produced before the learned Magistrate and sent to judicial custody.

3. Learned counsel for the applicant/accused contended that the applicant is innocent and has been falsely implicated in the case. He contended that the alleged recovery has been foisted upon him and that the prosecution story is doubtful. According to learned counsel, on the date of occurrence the applicant and his relatives were organizing a free medical camp at Village Dilawar Khoso, where at about 1300 hours ANF officials allegedly arrived in civil dress, made straight fires and forcibly

took away the applicant along with Zahid Hussain Khoso and Veero Rebari. It was submitted that the applicant was subsequently shown arrested in the present case. He further contended that the alleged recovery was made at a public and busy place, yet no private person was associated as mashir despite the availability of sufficient opportunity. The recovery witnesses are all ANF officials accompanying the complainant party. He contended that the prosecution has also failed to produce any independent corroboration of the alleged narcotics transaction; neither any purchaser was identified nor was any transaction witnessed. Learned counsel also referred to the alleged delay in lodging the FIR and submitted that the cumulative effect of these circumstances brings the case within the ambit of further inquiry under section 497(2), Cr.P.C. Learned counsel lastly contended that the alleged recovery has already been effected and the applicant is no longer required for investigation purposes. He pointed out that the applicant has remained behind bars since 02.11.2025. He contended that continued incarceration would serve no useful purpose and would amount to pre-trial punishment.

4. Conversely, learned Special Prosecutor for the ANF vehemently opposed the bail application. He contended that the applicant was arrested at the spot and that **2,000** grams of charas, being commercial quantity, was recovered from his possession in the presence of mashirs. According to him, the recovery constitutes sufficient incriminating material connecting the applicant with the commission of the alleged offence. He contended that no *mala fide* or previous enmity has been established against the prosecution witnesses so as to suggest false implication. Learned Special Prosecutor further contended that private persons could not be associated with the recovery proceedings due to their unwillingness to become witnesses in narcotics cases. He further contended that the absence of video recording or photographs, by itself, does not invalidate the recovery and that official witnesses are competent witnesses unless their evidence is shown to be actuated by *mala fide*. He, therefore, prayed for dismissal of the bail application.

5. We have heard learned counsel for the parties and examined the material available on record with their assistance. At the bail stage, the Court is required to make a tentative assessment of the material and is not expected to conduct a deeper appreciation of evidence or determine the ultimate guilt or innocence of the accused. The question is whether

the material presently available provides reasonable grounds for believing the guilt of the applicant or whether the circumstances call for further inquiry within the meaning of section 497(2), Cr.P.C.

6. In the present case, the prosecution principally relies upon the alleged recovery of 2,000 grams of charas from the applicant at a public place. We are conscious that the evidence of official witnesses cannot be discarded merely because of their official status. However, the fact remains that despite prior information regarding the alleged arrival of the applicant for supply of narcotics, no private person was ultimately associated with the arrest and recovery proceedings. The explanation furnished by the prosecution is that the passersby refused to act as mashirs. Whether such explanation satisfactorily accounts for the absence of independent witnesses is a matter which can properly be examined during trial. The specific plea of the applicant regarding the manner and time of his apprehension also requires tentative consideration. His case is that he was present at a medical camp earlier in the day and was taken away by ANF officials before the time of arrest shown in the FIR. For purposes of bail, the Court is not required to finally determine whether the plea is true or false. The question is whether the surrounding circumstances create a doubt requiring further inquiry. The plea concerning the alleged prior apprehension, coupled with the absence of independent witnesses to the recovery, is therefore a circumstance which cannot altogether be brushed aside at this stage. We have also noticed that although the prosecution alleges that the applicant had come to supply narcotics to his customers, no purchaser or alleged customer was apprehended or identified at the spot. Likewise, no independent corroborative material concerning the alleged transaction has been pointed out before us. These matters may ultimately be explained by the prosecution at trial; however, at the present stage, they constitute circumstances which, when considered cumulatively, require further inquiry rather than a conclusive finding against the applicant.

7. We are conscious that the alleged recovery of 2,000 grams of charas is a serious circumstance against the applicant. Nevertheless, the mere seriousness of the allegation or quantity of narcotic substance cannot, by itself, exclude the application of section 497(2), Cr.P.C., where the material otherwise gives rise to circumstances requiring further inquiry. The question at this stage is not whether the applicant will ultimately be acquitted or convicted, but whether the prosecution

material, on tentative assessment, establishes reasonable grounds for believing his guilt or whether the matter requires further examination through evidence. Section 497(2) expressly contemplates release on bail where sufficient grounds for further inquiry exist. In our tentative view, the combined effect of the circumstances discussed above, brings the case within the ambit of further inquiry.

8. For what has been discussed above, the instant bail application is **allowed**. The applicant/accused Muhammad Hassan @ Sher Khoso son of Ali Hassan Khoso is admitted to post-arrest 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 learned Trial Court.

9. It is clarified that the observations made herein are purely tentative in nature and shall not prejudice the case of either side at trial.

10. These are the reasons for our short order dated 27.08.2026, whereby the applicant/accused was admitted to post-arrest bail.

JUDGE

JUDGE