

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**

***Criminal Bail Application No. D-69 of 2026.***

***( Sahab Khan vs The State)***

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<b>Date</b>	<b>Order with signature(s) of Judge(s)</b>
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***Before:-***

***Mr. Justice Riazat Ali Sahar,***

***Mr. Justice Ali Haider 'Ada'.***

Applicant: Sahab Khan through Mr. Dildar Ali Chandio, Advocate.

Respondent: Mr. Nazir Ahmed Bangwar,  
Deputy Prosector General.

Date of Hearing: 03.06.2026.

Date of Order: 09.06.2026.

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**Ali Haider 'Ada', J:-** Through the instant bail application, the applicant seeks post-arrest bail in Crime No. 01 of 2026, registered at Police Station Gaheja for an offence punishable under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024. Earlier, the bail application of the applicant was declined by the learned trial Court vide order dated 19.03.2026.

2. The crux of the prosecution case is that on 02.01.2026, the applicant was apprehended and found in possession of 4000 grams of charas. After completion of the legal and codal formalities, he was sent up to face trial.

3. Learned counsel for the applicant mainly contended that there is a delay of one hour in the registration of the FIR; that the provisions of Section 103, Cr.P.C. have been violated as no independent mashirs or video recording of the incident were secured; and that the Chemical Examiner, through correspondence, reported receipt of more than 70 grams of

charas for chemical analysis. On these grounds, he prayed for the grant of bail.

4. Conversely, learned State Counsel argued that there is no enmity or ill-will on the part of the police to falsely implicate the applicant in a case involving such a huge quantity of narcotics. He further submitted that Section 103, Cr.P.C. is not attracted in narcotics cases; that the requirement of video recording under Section 17(2) of the Act, 2024 is not applicable in the present circumstances; and that regarding the discrepancy in weight, the SSP Shikarpur, vide letter dated 06.03.2026, clarified to the Chemical Examiner that the recovered narcotics weighed 4000 grams and were duly transmitted. The recovery memo and other documentary evidence also consistently reflect the quantity as 4000 grams. He, therefore, contended that no case for the concession of bail is made out.

5. Heard. Perused the material available on record.

6. The applicant is alleged to have been found in possession of 4000 grams of charas, which carries a maximum punishment of fourteen years' imprisonment. Therefore, the offence falls within the prohibitory clause of Section 497(1), Cr.P.C. A tentative assessment of the record prima facie connects the applicant with the commission of the alleged offence. At this stage, any detailed discussion on the merits may prejudice the case of either party. The question of guilt or innocence shall be determined by the learned trial Court after recording evidence. Reliance is placed on **Socha Gul v. The State, 2015 SCMR 1077**, wherein the Hon'ble Supreme Court, held that:

*"In our opinion, in such circumstances, neither categorization of sentencing nor any guess work or speculative exercise could be undertaken by the Court*

at bail stage to enlarge an accused on bail in such crimes, which will amount to pre-empting the mind of the trial Court, controlling its powers in the matter of sentencing an accused and determining the quantum of sentence upon his conviction. ... It is pertinent to mention here that offences punishable under C.N.S. Act of 1997 are by its nature heinous and considered to be the offences against the society at large and it is for this reason that the statute itself has provided a note of caution under section 51 of C.N.S. Act of 1997 before enlarging an accused on bail in the ordinary course. When we refer to the standards set out under section 497, Cr.P.C. for grant of bail to an accused involved in an offence under section 9(c) of C.N.S. Act of 1997, even on that basis we find that an accused charged with an offence, prescribing various punishments, as reproduced above, is not entitled for grant of bail merely on account of the nature or quantity of narcotic substance, being four kilograms. Firstly, as deeper appreciation of evidence is not permissible at bail stage and secondly, in such situation, looking to the peculiar features and nature of the offence, the trial Court may depart from the normal standards prescribed in the case of Ghulam Murtaza (*supra*) and award him any other legal punishment. Thus, in our opinion, ratio of judgment in the case of Ghulam Murtaza (*supra*) is not relevant at bail stage.

7. Nothing has been brought on record by the applicant to suggest any mala fide or ill-will on the part of the police to falsely implicate him in the present case. In the absence of any material indicating false implication, such a plea is not prima facie available at this stage. Reliance is placed upon the case of **MUHAMMAD ASLAM v. The State (2023 SCMR 2056)**. As regards the prompt dispatch of the recovered contraband for chemical analysis, the august Supreme Court of Pakistan in **Gul Din v. The State 2023 SCMR 306**, held as under:

2. This Court in a number of judgments has held that the said rule is directory, including in the cases of Tariq Mehmood v. State (PLD 2009 Supreme Court 39), Gul Alam v. State (2011 SCMR 624) and Muhammad Sarfraz v. State (2017 SCMR 1874). And, a five-member Bench of this Court, in the case of Tallat Ishaq v. National Accountability Bureau (PLD 2019 Supreme Court 112)

*held that the non-compliance of a directory rule would not entitle the petitioner to bail. Though the Tallat Ishaq was a case under the National Accountability Bureau Ordinance, 1999, in our opinion, the stated principle enunciated therein would be equally applicable to cases under the narcotic laws when directory provisions are not complied with. Accordingly, the ground of non-compliance with rule 4(2) of the Rules will not on its own be a sufficient ground to entitle the petitioner to the concession of bail.*

8. The applicant was allegedly apprehended red-handed at the spot and a substantial quantity of contraband was recovered from his personal possession. Moreover, the recovery memo is supported by the mashirs present at the time of recovery. Therefore, at this stage, the applicant is not found entitled to the concession of bail. Reliance is placed upon **Mst. Fursan v. The State (2022 SCMR 1950)**.

9. In view of the foregoing discussion and reasons, the applicant has failed to make out a case for the grant of post-arrest bail. Consequently, the instant bail application is hereby dismissed. Needless to observe that the findings recorded herein are tentative in nature and shall not prejudice either party at trial. The learned Trial Court shall decide the case strictly on the basis of the evidence brought on record, independently and without being influenced by any observation made in this order. The learned Trial Court is further directed to conclude the trial expeditiously, preferably within a period of six months.

**JUDGE**

**JUDGE**