

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.D-184 of 2026

(Riaz Ahmed v. The State)

Present:

Justice Muhammad Faisal Kamal Alam

Justice Tasneem Sultana

Applicant : Riaz Ahmed through Mr. J.K Jarwar,
Advocate.

The State : Through Mr. Aftab Ahmed Shar,
Additional Prosecutor General.

Date of Hearing : **06-08-2026**

Date of Order : **13-08-2026**

ORDER

TASNEEM SULTANA, J.- Through this criminal bail application, the applicant, Riaz Ahmed son of Soof Khan Rind, seeks post-arrest bail in Crime No.76 of 2026, registered under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024 (SCNSA) at Police Station Mehrabpur, after his post-arrest bail application was declined by the learned Sessions Judge/Special Judge CNS, Naushahro Feroze, vide order dated 10.06.2026.

2. The detailed facts of the case are already set out in the bail application and the FIR and, therefore, need not be reproduced here.

3. Learned counsel for the applicant contended that the applicant is innocent and has falsely been implicated in the present case; that the alleged recovery has been foisted upon him; that there is unexplained delay of about one hour in registration of the FIR despite the place of occurrence being situated at a short distance from the police station; that no private mashir was associated despite the alleged recovery having been effected

from a public place and, therefore, the provisions of Section 103, Cr.P.C. were not complied with; that the alleged case property was neither sealed nor was the mashirnama of arrest and recovery prepared at the spot; that the two pieces of Charas were not weighed separately and no proper description of the alleged narcotic substance was recorded in the FIR; that although the prosecution claimed to have dispatched 120 grams of Charas as sample, the Chemical Examiner's report reflects the gross weight of the sample as 128 grams and the net weight as 120 grams, which creates doubt regarding the prosecution case; that the mandatory requirement of video recording under Section 17(2) of the Sindh Control of Narcotic Substances Act, 2024 was not complied with; that the complainant, being an Assistant Sub-Inspector, was not competent to arrest the applicant or lodge the FIR in view of Section 21 of the Act; that the applicant is about eighteen years of age, has no previous criminal record and is no longer required for investigation; therefore, his case falls within the ambit of further inquiry and he is entitled to the concession of post-arrest bail.

4. Conversely, learned Additional Prosecutor General opposed the instant bail application and contended that the applicant is specifically nominated in the FIR and was apprehended at the spot; therefore, he is not entitled to the concession of post-arrest bail.

5. Heard and record perused.

6. It reflects from the record that the applicant was allegedly apprehended during routine patrolling and 1050 grams of Charas, consisting of two pieces, was recovered from his possession. The sample was separately forwarded to the Chemical Examiner, whose report confirms

that it contained Charas. Prima facie, therefore, the alleged recovery finds corroboration from the forensic report.

7. The alleged offence falls under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024, which is punishable with imprisonment that may extend to fourteen years but shall not be less than nine years, along with a fine up to five hundred thousand rupees, but not less than one hundred thousand rupees. In the case of **Jabran and another versus The State through Director General FIA and others (2025 SCMR 1099)**, the Honourable Supreme Court of Pakistan has discussed the question of imposition of maximum sentence. The relevant portion is reproduced as under:-

"6. We have gone through the referred judgments and have not been persuaded by the argument of the learned counsel that the minimum period of sentence is to be considered at bail stage for the purpose of section 497(1) Cr.P.C. Such interpretation is not supported by any law or subsequent jurisprudence established by this Court. At bail stage, the Court is not to undertake any speculative exercise or guess work regarding the probable length of sentence that will likely be awarded at the end of a trial. Doing so would amount to a deeper appreciation of evidence, which is prohibited at bail stage. Additionally, any such attempted categorization of sentencing or speculation at bail stage could prejudice future proceedings by pre-empting the mind of the Trial Court."

In recent judgment in **Barkat Ullah versus The State and another, Crl. Misc. No.431-B/2024**, it is held by the Larger Bench of Islamabad High Court that:-

"(a) The expression "punishable" used in section 497(1) Cr.P.C. refers to the maximum punishment provided for an offence. Thus if an offence is punishable by ten years or more, then subject to other legal grounds, the same would attract statutory prohibition contained in section 497(1) Cr. P.C. and

(b) It is held that if provision of the Act of 1997 provides for maximum punishment of ten years and more, it shall attract the prohibitory clause of section 497(1), Cr.P.C. The applicability of the term "borderline case" developed in the context of erstwhile provisions of the Act of 1997 i.e. section 9(c), would amount to anticipating possible period of conviction at bail stage, which exercise is not permissible while making tentative assessment of a criminal case."

In another case of **Muhammad Aslam versus The State (2023 SCMR 2056)**, the Honourable Supreme Court of Pakistan has observed as under:-

"The offence is heinous in nature as it contributes to the menace of drugs having grave repercussions on the society. Prima facie the material available on the record connects the petitioner with the commission of the crime. The offence falls within the prohibitory clause of section 497, Cr.P.C. The impugned order is well reasoned, proceeds on correct principles of law on the subject and does not call for interference by this Court."

8. The said offence, therefore, falls within the ambit of the prohibitory clause of Section 497(1), Cr.P.C., read with the bar contained in Section 35 of the Sindh Control of Narcotic Substances Act, 2024. The objections regarding non-association of private mashirs, alleged non-compliance with Section 103, Cr.P.C., non-recording of video under Section 17(2) of the Act, competency of the complainant under Section 21 of the Act, preparation of mashirnama and sealing of the case property at the spot, as well as the alleged discrepancy in the weight of the sample, primarily relate to the manner of investigation and appreciation of evidence. These are matters requiring evidence and are to be examined by the learned trial Court after the prosecution witnesses are subjected to cross-examination. At this stage, none of these objections, either individually or collectively, is sufficient to displace the prima facie effect of the alleged recovery supported by the positive report of the Chemical Examiner or to bring the

case within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C.

9. In view of the above, the applicant has failed to make out a case for grant of post-arrest bail. Consequently, this Criminal Bail Application is **dismissed**.

10. Needless to observe, the trial Court shall proceed independently on the basis of the evidence adduced before it, uninfluenced by the observations made hereinabove.

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