

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Crl. Bail Application No.D-16 of 2025

Present:

**Mr. Justice Shamsuddin Abbasi,
Mr. Justice Muhammad Hasan (Akber).**

Applicant: Sada Bux @ Gul S/o Hussain Bux,
Through Mr. Haji Qalandar Bux Laghari,
Advocate.

Respondent: The State.
Through Mr. Dhani Bakhsh Mari, Assistant P.G.

Date of hearing: **10.11.2025**

Date of Order: **10.11.2025**

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O R D E R

SHAMSUDDIN ABBASI, J.:- Through this Bail Application, the applicant/accused seeks post-arrest bail in FIR No.38/2025 registered under Section 9(i), 3-C (SCNS Act, 2024) of PS Mirwah Gorchani, after dismissal of his bail plea by the learned Additional Sessions Judge-I/Special Judge, SCNS, Mirpurkhas vide order dated 27.09.2025.

2. The brief facts of the prosecution case are that the complainant ASI Bahadur Ali of PS Mirwah Gorchani arrested the accused and recovered one black shopper containing chars weighing 1060 grams, under the memo of arrest and recovery in presence of mashirs by sealing the property at the spot. Thereafter, the applicant along with the recovered property was brought to the police station where the FIR was lodged.

3. Learned counsel for the applicant has contended that the applicant is innocent and he has been falsely implicated in this case due to malafide intention and ulterior motives; that alleged recovery of 1060 grams make out the case of border line and that the offence does

not come within the prohibitory clause of section 497(2) Cr.P.C. He finally prayed for grant of bail.

4. Learned A.P.G opposed the grant of bail on the ground that the accused is involved in serious narcotics offence and 1060 grams of charas was recovered from the possession of the applicant. Lastly, he prayed for dismissal of the bail application.

5. Heard learned counsel for the applicant, learned Assistant P.G and perused the material available on the record.

6. The alleged recovery of 1060 grams comes within the ambit of borderline which makes out the case of applicant from 9(B) to 9(c). In a case of **WAJID alias WAJI V/s The State** reported in **2016 P.Cr.L.J 831 [Sindh]**, it is held as under:-

“It is an admitted position in view of material available on record that only 1500 grams of charas was allegedly recovered from the applicant. It has been consistent view of the superior Courts that in cases where recovery of narcotic substance does not exceed the limit between 900 to 1500 grams the case being of borderline between clauses (b) and (c) of section 9 of Control of Narcotic Substances Act, 1997, therefore, invariably in all cases applicants have been admitted to bail. In this regard, guidance can be taken from the cases of 'Ayaz v. The State (2011 P.Cr.LJ 177), 'Taj Ali Khan v. The State (2004 YLR 439), 'Rayasat Ali v. The State (2005 YLR 1862), 'Mahboob Ali v. The State (2007 YLR 2968), 'Gulab Hussain v. The State' (2009 YLR 189), 'Gul Hassan Dero v. The State' (2000 P.Cr.LJ 657) and 'Pervaiz Ahmed v. The State' (PLD 2008 Karachi 14).

7. It is matter of record that punishment provided under Section 9(B) of the Act which may extend to nine years if the quantity of charas is from 500 grams to 999 grams. Here in this case, the quantity exceeds only 61 grams beyond 999 grams, which brings the case within the ambit of Section 9(B) to the borderline of Section 9(c), therefore, the case of the applicant squarely falls within the ambit of borderline. Learned A.P.G has pointed out that the applicant is involved in 06 other cases; however, he submits that the applicant is not previously

convicted in any case. It is a well-settled principle of law that mere pendency of criminal cases is no ground to refuse bail until and unless the accused stands convicted in any such matter. The benefit of border line can be extended at bail stage and if the offence does not come within the ambit of prohibitory clause of Section 497 Cr.P.C and rule is bail and not a jail as reported in case law reported as **2021 SCMR 2086 [Supreme Court of Pakistan], PLD 2017 Supreme Court 730 and 2016 P.Cr.L.J Note 109**. Therefore, the applicant is admitted on post arrest bail subject to furnishing a solvent surety in the sum of Rs.50,000/- and P.R. Bond in the like amount to the satisfaction of the learned trial court.

8. The observations made here-in-above are tentative in nature and would not prejudice the case of either party at the trial.

JUDGE

JUDGE

Faisal