

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
Criminal Bail Application No. D-116 of 2026

Before:

Mr. Justice Riazat Ali Sahar,
Mr. Justice Ali Haider 'Ada'

Applicant : Imdad @ Budho son of Nazar Muhammad Dayo, through Mr. Luqman Magsi, Advocate.

The State : Through Mr. Sardar Ali Solangi, Deputy Prosecutor General, Sindh.

Date of hearing : 12.08.2026.

Date of Order : 12.08.2026.

ORDER

Riazat Ali Sahar, J.— Through this post-arrest bail application filed under Section 497, Cr.P.C, the applicant/accused Imdad @ Budho seeks bail in FIR No.57/2026, registered at Police Station Karampur, for offences punishable under Sections 9 (1) (3) C The Sindh Control of Narcotics Substance Act, 2024 Amendment, 2025. His earlier bail application was dismissed by the learned Special Judge CNS/Sessions Judge, Kashmore at Kandhkot, vide order dated 22.06.2026.

2. Briefly stated, the prosecution case is that on 18.05.2026 at about 1400 hours, complainant SIP Ali Nawaz Chachar, along with police staff, was on routine patrolling near Diyani Turn when two persons carrying blue shopping bags allegedly attempted to flee upon seeing the police party. After a short chase, they were apprehended and disclosed their identities as Imdad @ Budho son of Nazar Muhammad and Ali Hassan alias Tilli son of Gul Hassan. According to the prosecution, the shopping bag allegedly possessed by the present applicant was opened and was found containing 1,200 grams of charas, whereas a further quantity of 1,000 grams was allegedly recovered from the co-accused. The recovered substance was

weighed, sealed and taken into custody, where-after the present FIR was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated. He submitted that the alleged recovery was effected from a blue shopping bag and not from the conscious and exclusive possession of the applicant; that the place of alleged recovery was a public and populated area, yet no private person was associated with the recovery proceedings; that the complainant himself acted as complainant, recovery witness and arresting officer; and that the prosecution case rests entirely upon police witnesses. He further contended that there was an unexplained delay of about one hour and forty minutes in registration of the FIR despite the alleged place of occurrence being situated only a short distance from the police station. It was also argued that the investigation is still incomplete and the challan has not yet been submitted before the trial Court. Learned counsel further referred to the deficiencies relating to safe custody and transmission of the alleged narcotic substance and submitted that the cumulative effect of such circumstances brings the case within the ambit of further inquiry under Section 497(2), Cr.P.C. He accordingly prayed for grant of bail.

4. Conversely, learned D.P.G. for the State opposed the application and submitted that the applicant was apprehended at the spot and a commercial quantity of charas was recovered from his possession. He contended that the recovery memo and other material available on record prima facie connect the applicant with the commission of the offence and that the bar contained in the special law operates against the applicant. He therefore prayed for dismissal of the bail application.

5. I have heard the learned counsel for the Applicant and learned DPG.

6. At the bail stage, the Court is not required to undertake a deeper appreciation of the evidence or to determine the guilt or innocence of the accused. The Court has only to make a tentative assessment of the

material available on record to determine whether reasonable grounds exist for believing that the accused has committed the alleged offence, and whether the case otherwise calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Undoubtedly, the prosecution alleges recovery of 1,200 grams of charas from a shopping bag allegedly carried by the applicant. However, the alleged recovery is a matter which would ultimately require examination of the prosecution witnesses and appreciation of the entire chain of circumstances at the trial. At this stage, certain aspects of the prosecution case cannot be altogether ignored. The alleged occurrence took place at about 1400 hours, whereas the FIR was registered at about 1540 hours, resulting in an interval of approximately one hour and forty minutes. Although the prosecution has attempted to explain the intervening period by reference to the preparation of mashirnama, sealing, weighing, personal search and other formalities, the effect of such delay, particularly in the circumstances of the present case, is a matter which requires examination on the basis of evidence.

7. It is also noteworthy that the alleged recovery was effected at a public place. The prosecution has associated police officials as mashirs of the recovery, while no independent person from the locality was associated with the proceedings, despite the assertion that the place was a populated area. The question whether the absence of private witnesses materially affects the prosecution case is essentially a matter of evidence; nevertheless, at the present stage, this circumstance, coupled with the other features of the case, cannot be completely disregarded. The defence has also raised a specific question regarding the manner in which the alleged narcotic substance was recovered, namely, that the same was recovered from a shopping bag allegedly in the possession of the applicant rather than from his person. Whether such possession was conscious, exclusive and attributable to the applicant is a question which requires deeper appreciation of the evidence and cannot appropriately be conclusively determined at the bail stage. Another important aspect is that the investigation is stated to be incomplete and the challan has not yet been submitted before the learned trial Court. The prosecution case

regarding safe custody, transmission and the complete chain of custody of the recovered substance would also require examination in the light of the relevant record and evidence. These matters may ultimately be proved by the prosecution at trial; however, for purposes of the present application, the cumulative effect of the above circumstances does create a reasonable doubt requiring further inquiry within the meaning of Section 497(2), Cr.P.C.

8. It is well settled that at the stage of bail the Court is not required to conduct a meticulous examination of the evidence or to record a final finding on disputed questions of fact. The tentative assessment made for purposes of bail is neither a declaration of innocence nor an expression on the merits of the case, and the learned trial Court shall independently assess the evidence at the appropriate stage.

9. Keeping in view the tentative assessment of the available material, the circumstances discussed above, and the fact that the further detention of the applicant is not shown to be necessary for any further recovery or investigative purpose, we are of the tentative view that the case of the applicant calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the applicant has made out a case for the grant of post-arrest bail. Accordingly, this Criminal Bail Application is allowed. The applicant Imdad @ Budho son of Nazar Muhammad is admitted to post-arrest bail in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and PR bond in the like amount to the satisfaction of the learned trial Court.

10. It is clarified that the observations made herein are tentative in nature, confined strictly to the disposal of this bail application, and shall not prejudice the merits of the case or influence the learned trial Court while deciding the case after recording of evidence.

Application stands disposed of in the above terms.

JUDGE

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