

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

Criminal Bail Application No. D-99 of 2026

**PRESENT: Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'**

Applicant Fida Hussain son of Walidad Macchi	:	Through Mr. Ghulam Yaseen Junejo, Advocate
The State	:	Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh.
Date of Hearing	:	13.08.2026
Date of Order	:	13.08.2026

ORDER

Riazat Ali Sahar, J.- Applicant Fida Hussain son of Walidad, by caste Macchi, seeks post-arrest bail in Crime No.29 of 2026, registered at Police Station Taluka, District Larkana, for an offence under Section 9(i)(3)(c) of the Sindh CNS Amendment Act, 2025, after dismissal of his post-arrest bail application by the learned Sessions/Special Judge for CNS, Larkana, vide order dated 21.05.2026.

2. According to the prosecution, on 21.04.2026 at about 0500 hours, A.S.I. Mohammad Hashim Magsi of P.S. Taluka, along with police officials, while on patrolling duty, reached near Yousuf Shah Jillani Graveyard, where they allegedly saw the applicant standing on the southern side of the road carrying a black plastic shopper. On seeing the police party, he allegedly attempted to escape, whereupon he was apprehended. The black shopper was secured from him and, upon checking, was found to contain charas in the shape of one slab and three pieces, weighing 1190 grams. The alleged recovered charas was sealed at the spot and the applicant was arrested. Hence, the present FIR was registered.

3. Learned Counsel for the applicant argued that the applicant is innocent and has falsely been implicated in the case; that the alleged charas has been foisted upon him by the police; that no independent person was associated with the recovery proceedings despite the alleged place of recovery being a public and busy place; that all the witnesses are police officials subordinate to the complainant; that neither photographs nor video recording of the alleged search, seizure and arrest were made; and that such omission attracts the principle laid down by the Hon'ble Supreme Court in the case of *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934). Learned Counsel further contended that the applicant was allegedly taken into illegal custody by the police on 14.04.2026, whereafter his mother approached the Senior Superintendent of Police, Larkana, for his release, but instead of releasing him, the police subsequently foisted the present recovery upon him. It was further argued that the case has already been challaned and the applicant is no longer required for investigation. Lastly, learned Counsel submitted that the alleged recovery is of 1190 grams of charas and the question of the applicability of the exact penal provision and ultimate quantum of punishment is to be determined by the learned trial Court after recording evidence. He therefore submitted that the case of the applicant calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

4. On the other hand, learned Deputy Prosecutor General opposed the bail application and contended that the applicant was apprehended red-handed and charas weighing 1190 grams was recovered from his conscious possession. He submitted that the police officials had no reason to falsely implicate the applicant and no mala fide on the part of the police has been established. He therefore prayed for dismissal of the bail application.

5. Heard learned Counsel for the applicant, learned DPG for the State and perused the record.

6. The recovery in the present case is shown to be 1190 grams of charas allegedly recovered from the applicant at about 0500 hours. The alleged recovery was made at a public place; however, admittedly, no private person was associated as a mashir of the recovery proceedings. Though the prosecution case is that the applicant was apprehended while carrying the alleged narcotic substance, the question whether the alleged recovery was effected from his conscious possession is ultimately to be determined by the learned trial Court after recording evidence.

7. It is also significant that the alleged recovery and arrest were not supported by any photographs or video recording, despite the availability of such means. The Hon'ble Supreme Court, in *Zahid Sarfaraz Gill v. The State* (2024 SCMR 934), has emphasized the importance of compliance with the statutory safeguards relating to recording of search, seizure and arrest. At the bail stage, such aspect, coupled with the absence of any independent witness to the recovery, requires tentative consideration and cannot be brushed aside altogether.

8. The prosecution has alleged recovery of 1190 grams of charas, whereas the applicant asserts false implication and prior illegal detention by the police. The latter allegation may require examination during trial, particularly in view of the application stated to have been submitted by the applicant's mother before the Senior Superintendent of Police, Larkana. The truth or otherwise of such assertion cannot be conclusively determined at this stage. Moreover, the case has already been challaned and the applicant is no longer required for further investigation.

9. It is settled principle of law that at the stage of bail, the Court is not required to conduct a deeper appreciation of the evidence but only to make a tentative assessment of the material available on record. The question of guilt or otherwise of the applicant is to be determined by the learned trial Court after recording and appreciating the evidence of both sides. The alleged recovery, absence of independent mashir, non-recording of photographs/video and the defence plea regarding prior detention, when considered cumulatively, make the case one requiring further inquiry within the meaning of Section 497(2), Cr.P.C.

10. For the foregoing reasons, the instant bail application is **allowed**. Applicant **Fida Hussain** shall be released on post-arrest bail subject to furnishing solvent surety in the sum of **Rs.50,000/- (Rupees fifty thousand only)** and P.R. Bond in the like amount to the satisfaction of the learned trial Court.

11. Needless to say that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the trial.

JUDGE

JUDGE

M Yousuf Panhwar**