

THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Present:

Mr. Justice Abdul Mobeen Lakho

Mr. Justice Riazat Ali Sahar

Criminal Bail Application No.D-133 of 2026

Applicant: Hadi Bux through Mr. Abdul Jabbar Charan, Advocate.

Respondent: The State through Ms. Rameshan Oad, D.P.G. Sindh along with Inspector Sajjad Hussain Jatoi PS Pinyari.

Date of hearing: 27.08.2026.

Date of order: 27.08.2026.

ORDER

RIAZAT ALI SAHAR, J: - The applicant/accused Hadi Bux son of Imam Bux seeks post-arrest bail in Crime No.35 of 2026 registered at Police Station Pinyari, Hyderabad, for an offence under section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024, after dismissal of his earlier bail application by the learned 1st Additional Sessions Judge/Special Judge, CNS Court, Hyderabad, vide order dated 19.03.2026.

2. Briefly, the prosecution case is that on 01.03.2026 at about 0115 hours, a police party headed by SIP Riaz Ahmed, while on patrol within the jurisdiction of P.S. Pinyari, allegedly apprehended the applicant near Filter Plant, Khursheed Town, Hyderabad, while he was carrying a black plastic bag. On checking, the bag allegedly contained pieces of charas, which on weighing were found to be 1830 grams. The applicant was arrested and the alleged narcotic substance was sealed and brought to the police station, whereupon the present FIR was registered.

3. Learned counsel for the applicant/accused contended that the applicant is innocent and has been falsely implicated in the case and that the alleged recovery has been foisted upon him. He contended that the place of alleged recovery is a thickly populated area, yet no private person was associated as mashir, although, according to the learned counsel, there were houses and villages around the place. He further contended that both mashirs are police officials and no independent corroborative evidence has been collected by the prosecution. Learned

counsel further contended that the prosecution itself claims that the mobile phone was used for recording pictures and video of the alleged proceedings but neither any forensic report of the alleged video clip has been produced nor the original mobile phone been shown as case property. He also pointed out that the individual pieces of charas were allegedly not separately weighed and that the FIR does not specify how many pieces were big and how many were small. According to learned counsel, these circumstances require further inquiry. Learned counsel further contended that the applicant is a poor labourer having no criminal history and that he was allegedly apprehended by CIA police while travelling with his relatives, where after, on account of a demand for illegal gratification and his refusal, the present case was registered against him. He further contended that the applicant is no longer required for investigation as case has been challaned and the prosecution has failed to comply with the mandatory requirements of section 17(2) of the Sindh Control of Narcotic Substances Act, 2024. He contended that the case falls within the ambit of further inquiry under section 497(2), Cr.P.C. and prayed for grant of post-arrest bail.

4. Learned Deputy Prosecutor General, Sindh, opposed the bail application and supported the impugned order. She contended that the applicant was apprehended at the spot while carrying the black plastic bag and that a substantial quantity of 1830 grams of charas was recovered from his possession. The alleged recovery, according to the prosecution, provides sufficient incriminating material connecting the applicant with the commission of the offence. The defence plea of false implication and the alleged plea regarding the manner of apprehension, involve factual controversies which cannot be finally examined at the bail stage. The learned D.P.G. consequently prayed for dismissal of the bail application.

5. We have heard learned counsel for the applicant/accused and learned Deputy Prosecutor General, Sindh, and have examined the material available on record with their assistance. At the bail stage, the Court is required to make a tentative assessment of the material and is not expected to conduct a deeper appreciation of evidence. The question is whether the material presently available provides reasonable grounds for believing the guilt of the applicant or whether the circumstances call for further inquiry within the meaning of section 497(2), Cr.P.C.

6. The prosecution case primarily rests upon the alleged recovery of 1830 grams of charas from a black plastic bag allegedly carried by the applicant. The alleged recovery was made during night patrolling near Filter Plant, Khursheed Town. Although the FIR states that public mashirs were not available and two police officials were consequently associated as mashirs, the defence has specifically asserted that the place was thickly populated and surrounded by houses and villages. At this stage, we are not required to determine whether private persons were in fact available or whether the explanation furnished by the prosecution is ultimately acceptable. Nevertheless, the absence of independent corroboration, in the circumstances asserted by the applicant, is a circumstance which may tentatively be taken into account while examining whether the case requires further inquiry. As to the question of contemporaneous video documentation, the prosecution version itself records that PC Dost Ali was directed to record pictures and video through a mobile phone. The applicant, however, specifically asserts that no forensic report of the alleged video clip has been produced and that the original mobile phone has not been shown as case property. Whether the requirements of section 17(2) of the Sindh Control of Narcotic Substances Act, 2024 were duly complied with, and what consequence may follow from any alleged omission, are matters requiring examination on the basis of the record and evidence. At the present stage, the alleged omission cannot be treated as conclusive proof of false implication; nevertheless, it is a relevant circumstance when considered cumulatively with the other features of the case.

7. We have also noticed the defence objection regarding the manner in which the alleged recovered substance was weighed. According to the FIR, the charas consisted of big pieces and pattis and the recovered substance was thereafter weighed jointly on an electronic scale, showing a total weight of 1830 grams. The defence specifically asserts that the individual pieces were not separately weighed and that the FIR does not disclose how many pieces were big and how many were small. These objections may ultimately prove immaterial or may be satisfactorily explained by the prosecution; however, at the bail stage, where the exact manner of recovery, weighing, seizure and documentation is yet to be tested through evidence and cross-examination, such circumstances cannot be altogether ignored. The applicant has also raised a specific plea that he was travelling with his relatives and was allegedly apprehended by CIA police, followed by a

demand for illegal gratification and, upon refusal, his false implication in the present case. We are conscious that a plea of false implication or alibi ordinarily requires evidence and cannot be finally adjudicated at the bail stage. We are equally conscious that the learned trial Court relied upon the principle that such pleas involve deeper appreciation. However, the present application is not being allowed merely on the basis of the defence plea. Rather, said plea is being considered along with the other circumstances appearing from the record, particularly the absence of independent mashirs, the disputed video documentation and the manner of weighing and documenting the alleged recovery. The alleged quantity of 1830 grams of charas is undoubtedly a serious circumstance against the applicant, and the offence carries a substantial sentence.

8. In the present case, we find that the cumulative effect of the circumstances discussed above requires further examination. The alleged recovery is supported by official mashirs; the defence has specifically questioned the absence of independent witnesses at a place asserted to be populated; the prosecution version refers to recording of pictures and video but the defence disputes the availability and evidentiary status of such material; and the manner of weighing and description of the recovered pieces has also been specifically challenged. These are not matters upon which a final opinion can appropriately be expressed at the bail stage. Their evidentiary worth will be determined by the learned Trial Court after recording and testing the evidence. We are, therefore, of the tentative view that the case of the applicant falls within the ambit of further inquiry as contemplated by section 497(2), Cr.P.C.

9. For what has been discussed above, the instant bail application is **allowed**. The applicant/accused Hadi Bux son of Imam Bux is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. Bond in the like amount to the satisfaction of the learned Trial Court.

10. It is clarified that the observations made herein are purely tentative in nature and shall not prejudice the case of either side at trial.

11. These are the reasons for our short order dated 27.08.2026, whereby the applicant/accused was admitted to post-arrest bail.

JUDGE

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