

THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Present:

Mr. Justice Abdul Mobeen Lakho

Mr. Justice Riazat Ali Sahar

Criminal Bail Application No.D-224 of 2026

Applicant: Mst. Salma Bibi through Mr. Shankar Lal, Advocate.

Respondent: The State through Ms. Rameshan Oad, D.P.G. Sindh along with Inspector Zulfiqar Ali PS Site Hyderabad.

Date of hearing: 27.08.2026.

Date of order: 27.08.2026.

ORDER

RIAZAT ALI SAHAR, J: - The applicant/accused Mst. Salma Bibi daughter of Syed Niaz Hussain Shah Bukhari seeks post-arrest bail in Crime No.64 of 2026, registered at Police Station SITE, Hyderabad, under Section 9(1)(3)(c) of the Sindh Control of Narcotic Substances Act, 2024, after dismissal of her post-arrest bail application by the learned Sessions Judge/Special Judge, CNSA, Hyderabad, vide order dated 19.06.2026.

2. Briefly, the prosecution case is that on 26.05.2026 at about 1930 hours, a police party headed by SIP Muhammad Naeem Rajput, while on patrol near Dargah Asadullah Shah, SITE Area, Hyderabad allegedly apprehended the applicant and recovered from a black-coloured shopper carried by her two big and one small pieces of charas, weighing 2085 grams. The alleged narcotic substance was taken into custody, sealed and a mashirnama of arrest and recovery was prepared in the presence of police officials. On the basis of such recovery, the present FIR was registered against the applicant.

3. Learned counsel for the applicant/accused contended that she is innocent and has been falsely implicated due to her alleged opposition to the open sale of narcotics in the locality. He contended that the applicant was, in fact, picked up from her house by police officials on 26.05.2026 at about 0900 hours and was subsequently shown arrested from the road and that video of such arrest is available with the applicant. According to learned counsel, the alleged recovery was foisted upon her and no independent person was associated as mashir despite the alleged place being a thickly populated area. He further contended

that there was delay in registration of the FIR; neither the size nor description of the alleged pieces of charas has been mentioned; and the pieces were not separately weighed, nor has it been clarified whether the weight was taken after excluding the shopper. He further contended that Section 17(2) of the Sindh CNS Act, 2024 mandates video recording of raids, seizures, inspections and arrests, but no such video was produced with the prosecution material. He contended that the learned Trial Court wrongly interpreted Section 17 while relying upon an earlier order of this Court concerning an accused allegedly apprehended on a road. Learned counsel further contended that the applicant is a woman and is therefore entitled to consideration under the first proviso to Section 497(1), Cr.P.C. He also pointed out that in the connected Crime No.63 of 2026, arising from the same occurrence, the applicant had already been granted bail by the learned Sessions Judge on 19.06.2026. He further contended that the present case is an offshoot of the same occurrence and that the applicant's continued incarceration is therefore not warranted. Learned counsel lastly contended that the investigation has been completed, the applicant is no longer required for investigation, she has no previous conviction or criminal record, as such, he prayed that the case be treated as one of further inquiry under Section 497(2), Cr.P.C. and that the applicant be admitted to post-arrest bail.

4. Learned Deputy Prosecutor General, Sindh, appearing for the State, opposed the bail application and supported the impugned order. She contended that the applicant was apprehended by the police and a substantial quantity of 2085 grams of charas was recovered from the shopper allegedly in her possession. According to learned D.P.G., the alleged recovery provides sufficient incriminating material connecting the applicant with the offence. She further contended that the testimony of police officials cannot be discarded merely because they are official witnesses and that the questions relating to false implication, non-association of private persons, manner of arrest and recovery, and alleged violation of Section 17 of the Sindh CNS Act involve matters requiring appreciation of evidence at trial. She, therefore, 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 available material with their assistance. At the bail stage, the Court is required to make only a tentative assessment of the material and is not

to undertake a deeper appreciation of evidence or determine disputed questions finally.

6. The alleged recovery of 2085 grams of charas is undoubtedly a serious circumstance; however, the manner in which such recovery is attributed to the applicant requires tentative consideration. The defence has consistently taken the specific stance that the applicant was arrested from her house and was subsequently shown to have been apprehended from the road. The prosecution version, on the other hand, alleges her apprehension near Dargah Asadullah Shah while carrying the shopper. This controversy regarding the actual place and circumstances of arrest is a factual question which cannot be conclusively determined at the bail stage. We have also noticed that the alleged recovery was effected by police officials and no private person was associated as mashir, although the defence asserts that the place was a populated locality. We are conscious that evidence of police officials is not to be discarded merely on account of their official status; nevertheless, the absence of independent corroboration is a circumstance which, in the peculiar facts of the case, may be taken into consideration along with other circumstances for determining whether further inquiry is called for. Furthermore, as to the statutory requirement of video recording was attracted to the actual circumstances of the applicant's arrest and recovery and whether any such recording exists or was preserved, are matters which require examination on the basis of evidence. At this stage, we would not express any final opinion regarding the applicability or ultimate evidentiary effect of the said provision.

7. We have also taken into consideration that the alleged 2085 grams of charas consisted of two big and one small pieces, yet the defence has specifically questioned the manner of weighing and has pointed out that the individual pieces were not separately weighed and that the prosecution version does not clarify whether the weight of the shopper was excluded. These matters may ultimately be explained by the prosecution during trial, but when considered cumulatively with the disputed circumstances of arrest, non-association of private mashirs and the question relating to video recording, they create circumstances requiring further inquiry. Furthermore, the applicant is a woman, the investigation has been completed and, according to the record placed before us, she has already been granted bail in the connected Crime No.63 of 2026 arising out of the same occurrence. Her continued

detention in the present case, in these circumstances, requires reconsideration. We are mindful of the seriousness of the allegation and the quantity of narcotic substance allegedly recovered. However, seriousness of the offence by itself cannot substitute the statutory requirement for reasonable grounds to believe that the accused is guilty, particularly where the material available on record gives rise to circumstances requiring further inquiry. Without expressing any final opinion on the merits of the case, we are of the tentative view that the applicant has succeeded in bringing her case within the ambit of Section 497(2), Cr.P.C.

8. For what has been discussed above, the instant bail application is **allowed**. The applicant/accused Mst. Salma Bibi daughter of Syed Niaz Hussain Shah Bukhari is admitted to post-arrest bail subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) to the satisfaction of the learned Trial Court.

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

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

JUDGE

JUDGE