

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN, QUETTA.

Criminal Bail Application No.145 of 2025
(CC # 100107803840)

Shamsullah
Vs.
The State.

Date of hearing: 24.11.2025 Announced on: 26.11.2025

Applicant by: Mr. Najeebullah Khan Kakar, Advocate.

State by: Mr. Habib-ur-Rehman Baloch, Special Prosecutor, ANF.

ORDER

Sardar Ahmad Haleemi, J. This order disposes of Criminal Bail Application No.145 of 2025 filed by the applicant/accused Shamsullah in case FIR No.23 of 2025 under section 9(1) 3-(e) of the Control of Narcotic Substances (Amended) Act, 2022 lodged at Police Station ANF RD, Quetta with the history of recovery of 36 KG Charas from the secret cavities of Toyota Probox vehicle bearing registration No. PAK-898 being driven by the applicant/accused.

2. The applicant/accused was arrested and investigated, and on completion of the investigation thereof, the challan of the case was submitted before the learned Special Judge, CNS, Balochistan, Quetta (hereinafter the “**trial Court**”).

3. In the meanwhile, the applicant/accused filed a post-arrest bail application No.168 of 2024 before the trial Court, but the said application was rejected vide order dated 06.10.2025, hence, the instant application.

4. Learned counsel for the applicant/accused contends that the entire prosecution case is doubtful as Section 103 Cr.P.C. has not been complied with, inasmuch as no independent witness of the locality was associated at the time of alleged recovery, despite the availability of such persons in a busy area like Khanozai Bazar; that this non-compliance strikes at the root of the prosecution version and renders the recovery proceedings doubtful; that the alleged narcotics were recovered from a vehicle accessible to others and no evidence has been produced to establish the conscious possession of the applicant/accused; that the case rests solely on uncorroborated police statements, the chain of safe custody and safe transmission has been compromised making the case one of further inquiry; the applicant, having no previous criminal history, is entitled to the benefit of further inquiry and concession of bail. In support of his contentions, learned counsel for the applicant/accused placed reliance on the case of Nasir Mahmood v. The State (2021 P.Cr.L.J 443 Sindh), Kashifullah v. The State (2020 MLD 675 Sindh) and Muhammad Yousif Jatoi v. The State (2025 MLD 128 Sindh).

5. Conversely, learned Special Prosecutor ANF vehemently opposed the bail application and argued that a huge quantity of narcotics was recovered from the possession of the accused, which, by itself, is sufficient to disentitle him from the concession of bail under the settled principles of law; that the alleged delay in transmitting the samples to the Punjab Forensic Science Laboratory has been fully explained, as when the samples reached the FSL, the laboratory was

closed on account of Eid-ul-Fitr holidays, thereby causing an unavoidable administrative delay. Learned prosecutor maintained that this circumstance does not create any dent in the prosecution's case at this stage and, in any event, such matters fall within the domain of evidentiary appreciation, which can only be determined by the trial Court after recording the evidence of the relevant witnesses. Therefore, according to him, the applicant does not deserve the relief sought.

6. We have heard the arguments of learned counsel for the parties and have gone through the available record.

7. As per contents of the FIR, on 27.03.2025 at about 11:00 a.m., Muhammad Faizan Khawaja, along with other ANF officials of P.S.RD/ANF Balochistan, intercepted a Toyota Probox vehicle bearing registration No.PAK-898, being driven by accused Shams Ullah, near Khanozai Bazar on the Pishin-Loralai Road, Tehsil Khanozai, District Pishin. The interception was carried out on the basis of spy information received by IP Muhammad Faizan Khawaja that the accused would attempt to transport a large quantity of narcotics in the said vehicle through the Pishin, Loralai route around that time. On query, the accused disclosed his identity to the ANF team. When specifically asked about narcotics, the accused admitted that Charas was concealed in a secret cavity made in the floor of the vehicle beneath the rear seat cushion. The accused himself removed the cushion, opened the concealed compartment with the help of tools

present in the vehicle, and produced 30 packets of Charas, each wrapped in yellow solution tape. The packets were handed over to IP Muhammad Faizan Khawaja in the presence of witnesses. On weighing, each packet measured 1200 grams, making a total of 36 kilograms of Charas.

8. Perusal of the record reveals that the applicant was apprehended near Khanozai Bazar, Pishin Loralai Road, while driving a Toyota Probox, on the allegation of transporting a huge quantity of narcotics, and 36 kilograms of Charas was allegedly recovered from a secret cavity of the vehicle in his possession. The FIR was lodged promptly without any delay. The record further reflects that the trial is still at its initial stage; although the samples of the recovered substance have been sent to the Punjab Forensic Science Laboratory, the chemical report is yet to be received. Besides, the offence with which the applicant stands charged is non-bailable and squarely falls within the prohibitory clause of Section 497, Cr.P.C., therefore, at this premature stage, the concession of bail cannot be extended under the law.

9. At the bail stage, deep scrutiny of material available on record is unwarranted, as the same would affect the merits of the case during trial. However, a tentative assessment of material available on record, prima facie, connects the applicant to the alleged recovery of narcotic substance. The alleged offence is non-bailable, and carries capital punishment.

The case laws referred to and relied upon by learned counsel for the applicant are not akin to the facts and circumstances of the instant case.

For the above reasons, the instant bail application is rejected.

The observations made hereinabove are tentative in nature, and the same shall not influence the merits of the case at trial.

Announced in open Court:
Quetta, on 26th November, 2025

Judge

Judge.